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रजिस्ट्री सं. डी. एल. (एन) 04/0007/2003-05

REGD. NO. D. L. (N) 04/0007/2003-05



भारत का राजपत्र The Gazette of India

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सं. 29] नई दिल्ली, जुलाई—11 जुलाई—17, 2010, शनिवार/आषाढ़ 20—आषाढ़ 26, 1932
No. 29] NEW DELHI, JULY 11—JULY 17, 2010, SATURDAY/ASADHA 20—ASADHA 26, 1932

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)
नई दिल्ली, 5 जुलाई, 2010

का. आ. 1741.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबन्ध) स्कीम, 1970/1980 के खंड 3 के उप खण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3(ज) और (3-क), द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से, श्री करणपाल सिंह सेखों (जन्म तिथि - 18-03-1956) को अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगला आदेश होने तक, जो भी पहले हो, पंजाब एण्ड सिंध बैंक के निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक के रूप में नामित करती है।

[फा. सं. 9/54/2009-बीओ-1]
सुरिन्दर कौर, अवर सचिव

MINISTRY OF FINANCE
(Department of Financial Services)

New Delhi, the 5th July, 2010

S.O. 1741.—In exercise of the powers conferred by sub-section 3(h) and (3-A) of Section 9 of The Banking

Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Shri Karanpal Singh Sekhon (DoB: 18-03-1956), as part-time non-official Director on the Board of Punjab & Sind Bank for a period of three years from the date of notification or until further orders, whichever is earlier.

[F. No. 9/54/2009-BO-I]

SURINDER KAUR, Under Secy.

नई दिल्ली, 9 जुलाई, 2010

का. आ. 1742.—रुग्ण औद्योगिक कंपनी (विशेष उपबन्ध) अधिनियम, 1985 की धारा 6 की उप-धारा (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री निर्मल सिंह को बीआईएफआर में वरिष्ठतम सदस्य होने के कारण 12-7-2010 से अगले आदेश होने तक, बीआईएफआर के अध्यक्ष के रूप में कार्य करने हेतु प्राधिकृत करती है।

[फा.सं. 20(1)/2004-आईएफ-11(खंड-II)]

रमण कुमार गौड़, अवर सचिव

New Delhi, the 9th July, 2010

S.O. 1742.—In exercise of the powers conferred by sub-section (5) of Section 6 of the Sick Industrial Companies (Special Provisions) Act, 1985, the Central Government hereby authorises Shri Nirmal Singh, being the senior most Member in BIFR to act as Chairman, BIFR from 12-7-2010, until further orders.

[F. No. 20(1)/2004-IF.-II (Pt. II)]

RAMAN KUMAR GAUR, Under Secy.

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 9 जुलाई, 2010

(आयकर)

का. आ. 1743.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 80झ की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार ने भारत सरकार के वित्त मंत्रालय, राजस्व विभाग, केन्द्रीय प्रत्यक्ष कर बोर्ड की अधिसूचना संख्या का.आ. 51 (अ), दिनांक 8 जनवरी, 2008 के जरिए औद्योगिक पार्क के लिए स्कीम तैयार और अधिसूचित की है;

2. और जबकि मै, कुमार हाऊसिंग कारपोरेशन लिमिटेड, जिसका पंजीकृत पता द्वितीय तल, कुमार कैपिटल, 2413, ईस्ट स्ट्रीट, कैम्प पुणे-411001 है, के सर्वे सं. 13/बी, 1+2+3 और क्रम सं. 14, वडगांव शेरी, हवेली, पुणे, महाराष्ट्र [परियोजना सेरेब्रम आई टी पार्क] में औद्योगिक पार्क विकसित किया है;

3. इसलिए अब आयकर नियमावली, 1962 के नियम 18 सी के साथ पठित उक्त अधिनियम की धारा 80झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और औद्योगिक पार्क स्कीम, 2008 के प्रावधानों के अन्तर्गत केन्द्र सरकार एतद्द्वारा मैसर्स कुमार हाऊसिंग कारपोरेशन लिमिटेड, पुणे को एक उपक्रम के रूप में तथा क्रम सं. 13बी, 1+2+3 और क्रम सं. 14, वडगांव शेरी, हवेली, पुणे, महाराष्ट्र-411014 [परियोजना: सेरेब्रम आई टी पार्क] की परियोजना को उक्त खंड के प्रयोजन के लिए उक्त उपक्रम द्वारा विकसित किए जा रहे औद्योगिक पार्क के रूप में अधिसूचित करती है।

4. उपर्युक्त औद्योगिक पार्क के शुरू होने की तिथि 31 मार्च, 2010 है।

5. अधिसूचना अमान्य होगी और मैसर्स कुमार हाऊसिंग कारपोरेशन, लिमिटेड, पुणे इस अमान्यता के किसी परिणाम के लिए पूरी तरह जिम्मेदार होगा, यदि

(i) इसके द्वारा प्रस्तुत आवेदन और बाद के दस्तावेजों जिनके आधार पर केन्द्र सरकार द्वारा अधिसूचना जारी की जाती है, में गलत सूचना/ झूठी सूचना हो अथवा कोई महत्वपूर्ण सूचना प्रदान न की गई हो।

(ii) यह ऐसे औद्योगिक पार्क के स्थान के लिए हो जिसके लिए अधिसूचना पहले ही अन्य उपक्रम के नाम जारी की जा चुकी हो।

6. केन्द्र सरकार के अनुमोदन के बिना परियोजना की योजना में किसी संशोधन से अथवा आवेदक द्वारा किसी महत्वपूर्ण तथ्य को उजागर न किए जाने से औद्योगिक पार्क का अनुमोदन अमान्य हो जाएगा।

[अधिसूचना सं. 47/2010/फा.सं. 178/79/2008-आ.का.नि.-I]

पदम सिंह, अवर सचिव

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 9th July, 2010

(INCOME-TAX)

S.O. 1743.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park wide notification of the Government of India in the Ministry of Finance (Department of Revenue, Central Board of Direct Taxes) number S.O. 51(E), dated the 8th January, 2008;

2. And whereas M/s. Kumar Housing Corporation Limited, having its registered address at 2nd Floor, Kumar Capital, 2413, East Street, Camp, Pune-411 001, has developed an Industrial Park at Survey No. 13/B, 1+2+3 and S.No. 14, Vadgaon Sheri, Haveli, Pune, Maharashtra [Project: Cerebrum IT Park];

3. Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of section 80-IA of the said Act read with rule 18-C of the Income Tax Rules, 1962, and subject to the provisions of Industrial Park Scheme, 2008 the Central Government hereby notifies M/s. Kumar Housing Corporation Limited, Pune as on undertaking and the project at S.No. 13/B, 1+2+3 and S.No. 14, Vadgaon Sheri, Haveli, Pune, Maharashtra-411 014 [Project: Cerebrum IT Park], being developed and maintained and operated by the said undertaking, as an industrial park for the purposes of the said clause.

4. The date of commencement of the aforesaid Industrial Park is 31st March, 2010.

5. The notification will be invalid and M/s. Kumar Housing Corporation Limited, Pune shall be solely responsible for any repercussions of such invalidity, if

(i) the application and subsequent documents furnished by it, on the basis of which the notification is issued by the Central Government contains wrong information/ misinformation or some material information has not been provided in it.

(ii) it is for the location of the industrial park for which notification has already been issued in the name of another undertaking.

6. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 47/2010 F.No. 178/79/2008-ITA-I]

PADAM SINGH, Under Secy.

नई दिल्ली, 12 जुलाई, 2010

का. आ. 1744.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबन्ध) स्कीम, 1970/1980 के खंड 9 के उप-खण्ड (1) और (2) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3) के खण्ड (च) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श करने से पश्चात्, एतद्द्वारा, श्री दिनकर एस. पुंजा (जन्म तिथि : 14-08-1954), वरिष्ठ शाखा प्रबंधक, सिंडिकेट बैंक को अधिसूचना की तिथि से तीन वर्षों की अवधि के लिए अथवा जब तक वे सिंडिकेट बैंक के अधिकारी के रूप में अपना पदभार नहीं छोड़ देते अथवा अगले आदेशों तक, इनमें से जो भी पहले हो, सिंडिकेट बैंक के निदेशक मंडल में अधिकारी कर्मचारी निदेशक के रूप में नामित करती है।

[फा. सं. 9/33/2003-बीओ-1]

सुमिता डावरा, निदेशक

New Delhi, the 12th July, 2010

S.O. 1744.—In exercise of the powers conferred by clause (f) of sub-section 3 of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) & (2) of Clause 9 of The Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with Reserve Bank of India, hereby nominates Shri Dinkara S. Punja (DoB: 14-08-1954), Senior Branch Manager, Syndicate Bank as Officer Employee Director on the Board of Directors of Syndicate Bank for a period of three years from the date of notification or until he ceases to be an officer of the Syndicate Bank or until further orders, whichever is the earliest.

[F. No. 9/33/2003-BO-I]

SUMITA DAWRA, Director

नई दिल्ली, 12 जुलाई, 2010

का. आ. 1745.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबन्ध) स्कीम, 1970/1980 के खंड 3 के उप-खण्ड (1) के साथ पठित, बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3(ज) और (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री मनीष गुप्ता (जन्म तिथि - 11-11-1941) को अधिसूचना की तिथि से तीन वर्षों की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, पंजाब एण्ड सिंध बैंक के निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक के रूप में नामित करती है।

[फा. सं. 9/21/2008-बीओ-1]

सुमिता डावरा, निदेशक

New Delhi, the 12th July, 2010

S.O. 1745.—In exercise of the powers conferred by sub-section 3(h) and (3-A) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of Clause 3 of the Nationalised Banks (Management and Miscellaneous

Provisions) Scheme, 1970/1980, the Central Government hereby nominates Shri Manish Gupta (DoB: 11-11-1941), as part-time non-official director on the Board of Punjab & Sind Bank for a period of three years from the date of notification or until further orders, whichever is the earliest.

[F. No. 9/21/2008-BO-I]

SUMITA DAWRA, Director

स्वास्थ्य और परिवार कल्याण विभाग

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 18 फरवरी 2010

का.आ. 1746.— भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के बाद उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात् :—

प्रथम अनुसूची में “देवी अहिल्या विश्वविद्यालय यूनिवर्सिटी, इंदौर” के सामने शीर्षक “मान्यताप्राप्त चिकित्सा अर्हता” [स्वंध (2) में] के अंतर्गत एवं शीर्षक “पंजीकरण के लिए संक्षेपण” [स्वंध (3) में] शीर्षक के अंतर्गत निम्नलिखित अन्तःस्थापित किया जाएगा, अर्थात् :—

2	3
“आयुर्विज्ञान तथा शल्य विज्ञान स्नातक	एम बी बी एल (यह एक मान्यताप्राप्त चिकित्सा अर्हता होगी यदि यह श्री अरविन्दो आयुर्विज्ञान संस्थान, इंदौर, मध्य प्रदेश के छात्रों के संबंध में देवी अहिल्या विश्वविद्यालय यूनिवर्सिटी, इंदौर द्वारा मई, 2009 के बाद प्रदान की गई हो।)ड

[सं. यू.-12012/110/2003-एम.ई.(पी-11)]

सी. एस. मिश्रा, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 18th February, 2010

S.O. 1746.—In exercise of the powers conferred by sub-section (2) of the Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said Schedule against “Devi Ahilya Vishwa Vidyalaya University, Indore” under the heading ‘Recognised Medical Qualification’ [in column (2)], and under the heading ‘Abbreviation for Registration’ [in column (3)], the following shall be inserted, namely:—

(2)	(3)
Bachelor of Medicine and Bachelor of Surgery	M.B.B.S. (This shall be a recognised Surgery medical qualification when granted by Devi Ahilya Vishwa Vidyalaya University,

(2)

(3)

Indore after May, 2009 in respect of students of Sri Aurobindo Institute of Medical Sciences, Indore, Madhya Pradesh.)

[No. U.-12012/110/2003-ME(P-II)]

C.S. MISHRA, Under Secy.

नई दिल्ली, 1 अप्रैल, 2010

का.आ. 1747.—दंत चिकित्सा अधिनियम, 1948 (1948 का 16) की धारा 3 के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा स्वास्थ्य एवं परिवार कल्याण मंत्रालय, भारत सरकार की अधिसूचना सं. का.आ. 430, दिनांक 24 जनवरी, 1984 में निम्नलिखित संशोधन करती है नामतः

उक्त अधिसूचना में क्रम संख्या 7 और उससे सम्बन्धित प्रविष्टियों के लिए “धारा 3 के परन्तुक के साथ पठित खंड क के अंतर्गत चयनित” शीर्ष के तहत उसमें निम्नलिखित प्रतिस्थापित किया जाएगा, नामतः

7. डा. भरत शेट्टी वार्ड	चयनित- कर्नाटक राज्य दंत
बी एच एम रोड, कुन्दापुर	चिकित्सा परिषद
दक्षिण कनारा-576201	दिनांक 4-1-2010
उडुपी जिला, कर्नाटक	

[फा. सं. वी-12016/1/2010-डीई]

आर शंकरन, अवर सचिव

New Delhi, the 1st April, 2010

S.O. 1747.—In exercise of the powers conferred under Section 3 of the Dentists Act, 1948 (16 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Health and Family Welfare No. SO 430 dated 24th January, 1984 namely :

In the said notification under head “Elected under clause (a) read with proviso to section 3” for serial No.7 and the entries relating thereto, the following shall be substituted therein namely :

7. Dr. Bharat Shetty Y.	Elected Karnataka State
B.H.M. Road, Kundapur	Dental 4-1-2010
South Canara-576 201	Council
Udupi Distt., Karnataka	

[F.No. V.-12016/1/2010-DE]

R. SANKARAN, Under Secy.

CORRIGENDUM

New Delhi, the 21st June, 2010

S.O. 1748.—In continuation to this Department's Notification No. U.-12012/273/2005-ME(P.II) dated 2-2-2006, and in exercise of powers conferred by sub-section 2 of the Section 11 of the Indian Medical Council Act, 1956 (102 of 1956) the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First schedule to the said act namely :—

In the said schedule—

“against “National Institute of Mental Health & Neuro Sciences (Deemed University)”, under the heading ‘Abbreviation’ for. Registration’ (column 3), the DM (Neuro Radiology) qualification shall be a recognised medical qualification when granted by National Institute of Mental Health & Neuro Sciences (Deemed University)”, Bangalore in respect of students being trained at National Institute of Mental Health & Neuro Sciences”. Bangalore on or after 2003 instead of August. 2004”.

[No. U. 12012/69/2010-ME(P-II)]

K.V.S. RAO, Dy. Secy.

CORRIGENDUM

New Delhi, the 21st June, 2010

S.O. 1749.—In continuation to this Department's Notification No.-U. 12012/22/2008-ME(P-II) dated 10-7-2008, and in exercise of powers conferred by sub-section (2) of the Section 11 of the Indian Medical Council Act, 1956 (102 of 1956) the Central Government after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act namely :—

In the said Schedule—

“against “Delhi University”, under the heading ‘Abbreviation for Registration’ (column 3), the MD (Psychiatry) qualification shall be a recognised medical qualification when granted by Delhi University in respect of students being trained at Institute of Human Behaviour and Allied Sciences, Delhi on or after 2006 instead of April, 2007”.

[No. U. 12012/69/2010-ME(P-II)]

K.V.S. RAO, Dy. Secy.

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 5 जुलाई, 2010

का. आ. 1750.—राजनयिक और कॉंसलीय ऑफिसर (शपथ और फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में, केन्द्र सरकार, एतद्वारा, श्री श्याम लाल मीणा, सहायक को 5-7-2010 से भारत के राजदूतावास, दोहा में सहायक कॉंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं. टी-4330/1/2006]

आर. के. पेरिन्डिया, अवर सचिव (कॉंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(C.P.V. Division)

New Delhi, the 5th July, 2010

S.O. 1750.—In exercise of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oath and Fees) Act 1948 (41 of 1948), the Central Government hereby authorize Shri Shyam Lal Meena, Assistant in the Embassy of India, Doha to perform the duties of Assistant Consular Officer with effect from 5th July, 2010.

[No. T. 4330/1/2006]

R. K. PERINDIA, Under Secy. (Consular)

मानव संसाधन विकास मंत्रालय

(स्कूल शिक्षा और साक्षरता विभाग)

(एनएलएम-IV अनुभाग)

नई दिल्ली, 7 जुलाई, 2010

का.आ. 1751.—दिनांक 13-11-2007 की भारत सरकार की अधिसूचना सं. एफ. 14-1/2004-ईई-1 तथा दिनांक 20-06-1998 के भारत सरकार के संकल्प संख्या एफ 9-5/87-ईई-1 (जिसे तदन्तर दिनांक 25-09-1992 के संकल्प संख्या 14-9/1992-ईई-1 तथा दिनांक 13-12-1994 के एफ 9-18/94-ईई-1 द्वारा संशोधित किया गया) के पैरा 4 में प्रदत्त शक्तियों का प्रयोग करते हुए गठित राष्ट्रीय साक्षरता मिशन प्राधिकरण की परिषद् की अवधि समाप्त होने पर परिषद् को निम्नलिखित सदस्यों के साथ पुनर्गठित करने का निर्णय लिया गया है :-

क्रम सं.	श्रेणी	प्रस्तावित गठन
1	2	3
क (i)	अध्यक्ष पदेन	मानव संसाधन विकास मंत्री, भारत सरकार
ख (ii)	उपाध्यक्ष पदेन	मानव संसाधन विकास राज्य मंत्री, भारत सरकार
ग	सदस्य पदेन	
1.	--वही--	सूचना एवं प्रसारण मंत्री, भारत सरकार
2.	--वही--	स्वास्थ्य एवं परिवार कल्याण मंत्री, भारत सरकार
3.	--वही--	युवा कार्यक्रम एवं खेल मंत्री, भारत सरकार
4.	--वही--	सामाजिक न्याय एवं अधिकारिता मंत्री, भारत सरकार
5.	--वही--	महिला एवं बाल विकास मंत्री, भारत सरकार
6.	--वही--	ग्रामीण विकास मंत्री, भारत सरकार
7.	--वही--	पंचायती राज मंत्री, भारत सरकार
8.	--वही--	अल्पसंख्यक कार्य मंत्री, भारत सरकार
9.	--वही--	जनजातीय कार्य मंत्री, भारत सरकार
10.	--वही--	सचिव, स्कूल शिक्षा और साक्षरता विभाग, भारत सरकार
11.	--वही--	अध्यक्ष, विश्वविद्यालय अनुदान आयोग
12.	--वही--	सदस्य (शिक्षा), योजना आयोग
13.	--वही--	महानिदेशक भारतीय कृषि एवं अनुसंधान परिषद्
14.	--वही--	अपर सचिव एवं वित्तीय सलाहकार, मानव संसाधन विकास मंत्री
15.	--वही--	संयुक्त सचिव, सर्व शिक्षा अभियान, स्कूल शिक्षा और साक्षरता विभाग
16.	--वही--	अध्यक्ष, राष्ट्रीय महिला आयोग, नई दिल्ली
17.	सदस्य सचिव पदेन	संयुक्त सचिव, (प्रौढ़ शिक्षा) और महानिदेशक, राष्ट्रीय साक्षरता मिशन प्राधिकरण
घ	नामित सदस्य	शिक्षाविदों, वैज्ञानिकों, मीडिया विशेषज्ञों आदि में से पांच व्यक्ति
18.	--वही--	डॉ. आर. चिदंबरम, प्रधानमंत्री के मुख्य वैज्ञानिक सलाहकार
19.	--वही--	प्रो. एस. वाई. शाह, जवाहर लाल नेहरू विश्वविद्यालय
20.	--वही--	डॉ. शारदा जैन अध्यक्ष, राष्ट्रीय संसाधन समूह, महिला समाख्या, 07, हॉस्पिटल रोड, जयपुर
21.	--वही--	सुश्री मृदुला सेट, सलाहकार, यूएनडीपी
22.	--वही--	श्री दिलीप पादगांवकर, मुख्य संपादक, टीओआई
ङ	नामित सदस्य	स्वैच्छिक संगठनों का प्रतिनिधित्व करने वाले छः व्यक्ति
23.	--वही--	श्री विनोद रैना, बीजीवीएस, नई दिल्ली
24.	--वही--	सुश्री ईला भट्ट, अध्यक्ष, एसईडब्ल्यूए, अहमदाबाद
25.	--वही--	सुश्री यासमीन प्रेमजी, अजिम प्रेमजी फाउंडेशन, बंगलौर
26.	--वही--	डॉ. शैबल गुप्ता, निदेशक एडीआरआई, पटना, बिहार
27.	--वही--	श्रीमती मालिनी घोष, निरंतर, बी 46, द्वितीय तल, सर्वोदय एन्क्लेव, नई दिल्ली
28.	--वही--	डॉ. रजिया पटेल, अध्यक्ष, अल्पसंख्यक शिक्षा सेल, भारतीय शिक्षा संस्थान, 128/2, जेपी नायक पथ ऑफिस, करेल रोड, काथरुड, पुणे-410038

1	2	3
च	नामित सदस्य	
29-34	--वही--	मुख्य राष्ट्रीय राजनैतिक दलों के वरिष्ठ स्तरीय नेता (राजनैतिक दलों द्वारा नामित किए जाएंगे)
छ	सदस्य	संसद के तीन सदस्य (लोक सभा से दो तथा राज्य सभा से एक संसदीय कार्य विभाग द्वारा नामित किए जाएंगे)
35-36	--वही--	लोक सभा से दो संसद सदस्य (संसदीय कार्य विभाग द्वारा नामित किए जाएंगे)
37.	-वही-	राज्य सभा से एक संसद सदस्य (संसदीय कार्य विभाग द्वारा नामित किए जाएंगे)
ज	सदस्य	चक्रानुक्रम आधार पर नामित किए जाने वाले राज्य सरकारों/संघ शासित प्रदेशों से प्रौढ़ शिक्षा हेतु छः मंत्री उत्तरदायी
38.	-वही-	असम
39.	-वही-	कर्नाटक
40.	-वही-	राजस्थान
41.	-वही-	उत्तर प्रदेश
42.	-वही-	उड़ीसा
43.	-वही-	छत्तीसगढ़
झ	सदस्य	समेकित निकायों के प्रतिनिधि (6)
44.	-वही-	महानिदेशक, फेडरेशन ऑफ इंडियन चैंबरस ऑफ कॉमर्स एंड इंडस्ट्रीज, नई दिल्ली
45.	-वही-	भारतीय उद्योग संघ, नई दिल्ली
46.	-वही-	सार्वजनिक उद्यमों पर स्थायी समिति, नई दिल्ली
47.	-वही-	यूनेस्को के कंट्री रिप्रेजेन्टेटिव, नई दिल्ली
48.	-वही-	यूनीसेफ के कंट्री रिप्रेजेन्टेटिव, नई दिल्ली
49.	-वही-	यूनडीपी के कंट्री रिप्रेजेन्टेटिव, नई दिल्ली

2. भारत सरकार के नियमों के अनुसार राष्ट्रीय साक्षरता मिशन प्राधिकरण की परिषद के गैर-शासकीय सदस्य यात्रा और दैनिक भत्ते के पात्र होंगे।

3. परिषद की अवधि इस अधिसूचना की तारीख से दो वर्ष के लिए रहेगी।

[सं. एफ. 46-3/2008-ईई-4/एनएलएम-4]

जगमोहन सिंह राजू, संयुक्त सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of School Education & Literacy)

(NLM-IV Section)

New Delhi, the 7th July, 2010

S. O. 1751.—On expiry of the term of the Council of the National Literacy Mission Authority (NLMA) constituted vide Government of India's Notification No. F. 14-1-2004-AE-I dated 13-11-2007 and in exercise of powers delegated in para 4 of Government of India Resolution No F.9-5/87-AE-I dated 20-6-1998 (modified further vide Resolution No F. 14 -9/1992-AE-I dated 25-9-1992 and F.9-18/94-AE-I dated 13-12-1994), it has been decided to reconstitute the Council with the following members :

S. No.	Category	Proposed Composition
1	2	3
A (i)	Chairman Ex-officio	Minister of Human Resource Development, Government of India
B. (ii)	Vice Chairperson Ex-officio	Minister of State, Ministry of Human Resource Development, Government of India
C.	Members (Ex-Officio)	
1.	Member Ex-Officio	Minister of Information & Broadcasting, Government of India.
2.	Member Ex-Officio	Minister of Health & Family Welfare, Government of India.

1	2	3
3.	Member Ex-Officio	Minister of Youth Affairs & Sports, Government of India.
4.	Member Ex-Officio	Minister of Social Justice & Empowerment, Government of India
5.	Member Ex-Officio	Minister of Women-& Child Development, Government of India
6.	Member Ex-Officio	Minister of Rural Development, Government of India
7.	Member Ex-Officio	Minister of Panchayati Raj, Government of India
8.	Member Ex-Officio	Minister of Minority Affairs, Government of India
9.	Member Ex-Officio	Minister of Tribal Affairs, Government of India
10.	Member Ex-Officio	Secretary, Department of School Education and Literacy, Government of India
11.	Member Ex-Officio	Chairman, University Grants Commission (UGC)
12.	Member Ex-Officio	Member (Education), Planning Commission
13.	Member Ex-Officio	Director-General, Indian Council of Agricultural and Research
14.	Member Ex-Officio	Additional Secretary & Financial Adviser, Ministry of Human Resource Development,
15.	Member Ex-Officio	Joint Secretary, Sarva Shiksha Abhiyan, Department of School Education and Literacy
16.	Member Ex-Officio	Chairperson, National Commission for Women, New Delhi.
17.	Member- Secretary Ex-Officio	Joint Secretary (AE) & Director General, National Literacy Mission Authority
D	Nominated Members	Five persons from amongst educationists, scientists, media experts, etc.
18.	- do -	Dr. R. Chidambaram, Principal Scientific Adviser to Prime Minister
19.	- do -	Prof. S.Y. Shah, Jawaharlal Nehru University
20.	- do -	Dr. Sharda Jain, Chairperson, National Resource Group, Mahila Samakhya, 07, Hospital Road, Jaipur.
21.	- do -	Ms. Mridula Seth, Adviser, UNDP
22.	- do -	Mr. Dileep Padgaonkar, Chief Editor, TOI
E	Nominated Members	Six persons to represent Voluntary Organisation
23.	- do -	Shri Vinod Raina, BGVS, New Delhi
24.	- do -	Ms. Ela Bhat, Chairperson, SEWA, Ahmedabad.
25.	- do -	Ms. Yasmeen Premji, Azim Premji Foundation, Bangalore
26.	- do -	Dr. Shaibal Gupta, Director, ADRI, Patna, Bihar.
27.	- do -	Smt. Malini Ghose, NIRANTAR, B 46 Second Floor, Sarvodaya Enclave, New Delhi.
28.	- do -	Dr Razia Patel, Head, Minority Education Cell, Indian Institute of Education, 128/2, JP Nayak Path Office, Karrel Road, Kothrud, Pune-410038
F	Nominated Members	
29—34	- do -	Senior level leaders of the main national political parties (to be nominated by political parties)
G	Members	Three Members of Parliament (two from Lok Sabha and one from Rajya Sabha to be nominated by Department of Parliamentary Affairs)
35-	- do -	Two MPs from Lok Sabha (to be nominated by Department of Parliamentary Affairs)
36		
37	- do -	One MP from Rajya Sabha (to be nominated by Department of Parliamentary Affairs)

1	2	3
H	Members	Six Ministers responsible for Adult Education from State Governments/ Union Territories to be nominated on a rotational basis.
38.	- do -	Assam
39.	- do -	Karnataka
40.	- do -	Rajasthan
41.	- do -	Uttar Pradesh
42.	- do -	Orissa
43.	- do -	Chhattisgarh
I	Members	Representatives of Integrated Bodies (6)
44.	- do -	Director General Federation of Indian Chambers of Commerce & Industries (FICCI), New Delhi
45.	- do -	Confederation of Indian Industries (CII), New Delhi
46.	- do -	Standing Committee on Public, Enterprises (SCOPE), New Delhi
47.	- do -	Country Representative of UNESCO, New Delhi
48.	- do -	Country Representative of UNICEF, New Delhi
49.	- do -	Country Representative of UNDP, New Delhi

2. The non-official Members of the Council of the National Literacy Mission Authority will be entitled to travelling and daily allowance as per the Govt. of India Rules.

3. The term of the Council will be for a period of two years from the date of notification.

[No. F. 46-3/2008-AE-4/NLM-4]

JAGMOHAN SINGH RAJU, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(खाद्य और सार्वजनिक वितरण विभाग)

नई दिल्ली, 23 जून, 2010

का. आ. 1752.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन केन्द्रीय भंडारण निगम के निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :—

1. केन्द्रीय भंडारगृह,
आंचल डेरी के निकट, पौड़ी रोड,
श्रीनगर-246 174
(उत्तराखण्ड)

[संख्या ई-11011/1/2008-हिन्दी]

नवीन प्रकाश, संयुक्त सचिव

MINISTRY OF CONSUMER AFFAIRS FOOD AND PUBLIC DISTRIBUTION

(Department of Food and Public Distribution)

New Delhi, the 23rd June, 2010

S. O. 1752.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (use for official purpose of the Union) Rules, 1976 the Central Government hereby notifies the following office of Central Warehousing Corporation under the administrative control of the Ministry of Consumer Affairs, Food & Public Distribution (Deptt. of Food & Public Distribution), whereof more than 80% of staff have acquired the working knowledge of Hindi :—

1. Central Warehouse,
Near Aanchal Dairy,
Pouri Road,
Srinagar-246 174
(Uttarakhand)

[No. E-11011/1/2008-Hindi]

NAVEEN PRAKASH, Jt. Secy.

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो

नई दिल्ली, 30 जून, 2010

का.आ. 1753.—भारतीय मानक ब्यूरो (प्रमाणन), विनियम, 1988 के विनियम 6 के उप विनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में विदेशी निर्माताओं (सार्क समूह देशों के अतिरिक्त) के लिए मुहरांकन शुल्क अधिसूचित करता है :—

अनुसूची

एक चालू वर्ष के लिए न्यूनतम मुहरांकन शुल्क यू एस \$ 2000 तथा स्वदेशी निर्माताओं पर सम्बंधित भारतीय मानक के लिए लागू इकाई दर पर आधारित मुहरांकन शुल्क ।

[संख्या : के मु वि-1/13 : 10]

सी. के. महेश्वरी, वैज्ञानिक जी (प्रमाणन)

(Department of Consumer Affairs)

Bureau of Indian Standards

New Delhi, the 30th June, 2010

S. O. 1753.— In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards Certification Regulations, 1988 the Bureau of Indian Standards hereby, in the Schedule below, notifies the marking fee for foreign manufacturers other than SAARC countries.

SCHEDULE

Minimum Marking Fee for one operative year US \$ 2000 plus marking fee on unit rate basis for respective Indian Standards as applicable to domestic manufacturers.

Enforcement Date : 21 Jan, 2010

[No. CMD-I/13 : 10]

C. K. MAHESHWARI, Sc. G (Certification)

नई दिल्ली, 2 जुलाई, 2010

का. आ. 1754.—भारतीय मानक ब्यूरो नियम, 1987 के नियम, 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 12933 (भाग 5) : 2003 सौर सपाट पट्टिका संग्राहक-विशिष्ट भाग 5 परीक्षण पद्धति (दूसरा पुनरीक्षण)	संशोधन नं. 2, जून, 2010	29 जून, 2010

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ : एम.ई.डी./जी-2:1]

सी. के. वेदा, वैज्ञानिक एफ एवं प्रमुख (यांत्रिक इंजीनियरिंग)

New Delhi, the 2nd July, 2010

S.O. 1754.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 12933 (Part 5) : 2003 Solar flat plate collectors—Specification Part 5 Test method (second revision)	Amendment No. 2 June, 2010	29 June, 2010

Copy of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref : MED/G- 2 : 1]

C. K. VEDA, Scientist F & Head (Mechanical Engg.)

नई दिल्ली, 2 जुलाई, 2010

का.आ. 1755.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
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(1)	(2)	(3)	(4)
1.	आइएस 8368:2010 कठोर धातुओं के लिए टंग्स्टन कार्बाइड पाउडर-विशिष्ट (दूसरा पुनरीक्षण)	आइ एस 8368:1985	30 मार्च, 2010

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : एम.टी.डी. 25/टी-62, 34]

पी. घोष, वैज्ञानिक 'एफ' एवं प्रमुख (एमटीडी)

New Delhi, the 2nd July, 2010

S.O. 1755.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule, 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. & year of the Indian Standards Established	No. and year of Indian Standards if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 8368 : 2010 – Tungsten carbide powder for hardmetals–Specification (second revision)	IS 8368 : 1985	30 March, 2010

Copy of this Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. M. T.D. 25/T-62,34]

P. GHOSH Sc. 'F' & Head (MTD)

नई दिल्ली, 5 जुलाई, 2010

का.आ. 1756.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक में संशोधन किया गया है :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 2911 (भाग 4):1985	2 जून, 2010	30 जून, 2010

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 5th July, 2010

S.O. 1756.—In pursuance of clause (b) of sub-rule (1) of Rules, (1) of Rule, 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the amendment to the Indian Standard, particulars of which is given in the Schedule hereto annexed have been issued :—

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 2911 (Part 4) : 1985	2 June, 2010	30 June, 2010

Copy of the amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Sc. 'F' & Head (Civil Engg.)

नई दिल्ली, 5 जुलाई, 2010

का. आ. 1757.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा. भाग अनु. वर्ष संख्या
(1)	(2)	(3)	(4)	(5)	(6) (7) (8) (9)
1.	3619969	01-04-2010	मेसर्स ग्रीन्ज कॉटन लिमिटेड (लाइट इंजिन्स यूनिट-4) जे-2/ए, चिकलथाना एमआय- डीसी इंड. एरिया, जिला औरंगाबाद- 431210, महाराष्ट्र।	सामान्य प्रयोजनों के लिए समगत संपीडन प्रज जलन (डीजल) इंजिन्स की कार्यकारिता अपेक्षाएं (20 कि.वा. तक)	10001 1981
2.	3621451	07-04-2010	मेसर्स भरत स्टील इंडस्ट्रीज प्लॉट नं. ए-6/7 एमआयडीसी एरिया जिला नांदेड़-431603 महाराष्ट्र।	कांक्रिट प्रबलन के लिए उच्च सामर्थ्य विकसित इस्पात की छड़ें और तारें	1786 2008
3.	3622251	08-04-2010	मेसर्स कमल सीमेंट पाइप एंड प्रॉडक्ट्स गट संख्या 463 ए/पी निम्बत निरा तालुका बारामती जिला पुणे-412 102 महाराष्ट्र।	ग्रीकास्ट कांक्रिट पाइप्स (प्रबलन सहित और रहित)	458 2003
4.	3624154	19-04-2010	मेसर्स कॉट ज्वैलर्स 228, मैन बाजार, देहू रोड, जिला पुणे-412101 महाराष्ट्र।	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी-शुद्धता एवं मुहरांकन।	1417 1999

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
5.	3625055	23-04-2010	मेसर्स मोहक एग्रो इंडस्ट्रीज प्लॉट नं. 1, इंडस्ट्रीयल इस्टेट, नगर पुणे रोड, केडगांव, तालुका अहमदनगर, जिला अहमदनगर-414005 महाराष्ट्र ।	सिंचाई उपकरण- इमीटिंग पाइप सिस्टम	13488			2008

[संख्या : सी.एम. डी. 13 : 11]

सी. के. महेश्वरी, वैज्ञानिक "जी" (प्रमाणन)

New Delhi, the 5th July, 2010

S.O. 1757.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name & Address of the Party	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3619969	01-04-2010	Greaves Cotton Ltd. (Light Engines Unit-IV) J-2/A, Chikalthana MIDC Indl. Area, District Aurangabad- 431210 Maharashtra	Performance requirements for constant speed compression ignition (Diesel) engines for general purposes (upto 20 kw)	1981			1981
2.	3621451	07-04-2010	Bharat Steel Industries Plot No.-A-6/7 MIDC Area Nanded-431603 Maharashtra	High strength deformed steel bars and wires for concrete reinforcement	1786			2008
3.	3622251	08-04-2010	Kamal Cement Pipe and Products Gat No. 463 A/P Nimbut Nira Taluka Baramati District Pune-412 102 Maharashtra	Precast concrete pipes (with and without rein- forcement)	458			2003
4.	3624154	19-04-2010	Kanti Jewellers 228, Main Bazar Dehu Road, District Pune-412101 Maharashtra	Gold and Gold Alloys, Jewellery/Artefacts- Fineness and Marking	1417			1999
5.	3625055	23-04-2010	Mohak Agro Industries Plot No.1, Indl Estate Nagar-Pune Road, Kedgaon Taluka Ahmednagar District Ahmednagar-414005 Maharashtra	Irrigation equipment- Emitting pipe systems	13488			2008

[No. CMD/ 13 : 11]

C. K. MAHESHWARI, Sc. "G" (Certification)

नई दिल्ली, 6 जुलाई, 2010

का.आ. 1758.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में एतद्वारा अधिसूचित किया जाता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिया गया हैं, वे रद्द कर दिए गए हैं और वापस ले लिये गये हैं :-

क्रम सं.	रद्द किये गये मानक (कों) की संख्या और वर्ष	भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) में का. आ. संख्या और तिथि प्रकाशित	टिप्पणी
(1)	(2)	(3)	(4)
1	आइ एस 2439 : 1963 धातु के हाथ रोलर्स की विशिष्टि (स्थिर वजन प्रकार)	—	अप्रचलित है और देश में प्रयोग नहीं हो रहा है।
2	आइ एस 14259 : 1995/आईएसओ 2017:1982 कंपन और प्रघात विलगनक-विशेषताओं को निर्दिष्ट करने की प्रक्रियाएँ	—	आईएसओ 2017:1982 की जगह आईएस/आईएसओ 2017-1 और आईएस/आईएसओ 2017-2 के प्रकाशन का भारतीय मानक के रूप में अधिग्रहण हो रहा है।

[संदर्भ एम. ई.डी./जी 2:1]

सी. के. वेदा, वैज्ञानिक 'एफ' एवं प्रमुख (यांत्रिक इंजीनियरिंग)

New Delhi, the 6th July, 2010

S.O. 1758.—In pursuance of clause (b) of sub-rule (1) of Rules 7 of the Bureau of Indian Standards Rules, 1987, it is, hereby notifies that the Indian Standards, particulars of which are mentioned in the Schedule given hereafter, have been cancelled and stand withdrawn :—

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Cancelled	S.O. & Date published in the Gazette of India Part-II, Section 3, Subsection (ii)	Remarks
(1)	(2)	(3)	(4)
1.	IS 2439 : 1963 Specification for metal hand rollers (fixed weight type)	—	Obsolete, Not used nowadays.
2	IS 14259:1995/ISO 2017:1982 Vibration and shock isolators—Procedures for specifying characteristics	—	Publication of ISO 2017-1 and ISO 2017-2 in place of IS 2017 which are being adopted as Indian Standards.

[Ref: MED/G-2:1]

C. K. VEDA, Sc 'F' & Head (Mechanical Engg.)

नई दिल्ली, 9 जुलाई, 2010

का.आ. 1759.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :-

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 1239(Pt 1) : 2004 इस्पात की नलियाँ, नलिकाकार सामग्रियाँ तथा इस्पात की अन्य फिटिंगें—विशिष्टि भाग 1 इस्पात की नलियाँ (छटा पुनरीक्षण)	संशोधन संख्या 4 जून, 2010	जून, 2010

इस संशोधन की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002 और क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: एमटीडी 19/T-1]

पी. घोष, वैज्ञानिक 'ई' एवं प्रमुख (एमटीडी)

New Delhi, the 9th July, 2010

S.O. 1759.—In pursuance of clause (b) of sub-rule (1) of Rules 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and Title of the Standards (s)	No. & year of amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1239 (Pt 1):2004 Steel tubes, tubulars and other wrought steel fittings—Specification Part 1 Steel tubes (<i>sixth revision</i>)	Amendment no. 4 June 2010	June 2010

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bhadure Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkatta, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref : MTD 19/T-1]

P. GHOSH, Sc 'E' & Head (Met Engg)

नई दिल्ली, 9 जुलाई, 2010

का.आ. 1760.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 1536:2001 जल, गैस एवं मल जल के लिए अपकेन्द्री ढलवां (स्पन) लोहे के दाब पाइप—विशिष्ट (चौथा पुनरीक्षण)	संशोधन संख्या 4 जून, 2010	जून, 2010

इस संशोधन की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002 और क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ: एमटीडी 6/T-10]

पी. घोष, वैज्ञानिक 'ई' एवं प्रमुख (एमटीडी)

New Delhi, the 9th July, 2010

S.O. 1760.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and Title of the Standards (s)	No. & year of amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1536:2001 Centrifugally cast (spun) iron pressure pipes for water, gas and sewage—Specification (<i>fourth revision</i>)	Amendment no. 4 June, 2010	June, 2010

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bhadure Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkatta, Chandigarh, Chennai, Mumbai and also

Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: MTD 6/T-10]

P. GHOSH, Sc 'E' & Head (Met Engg)

नई दिल्ली, 9 जुलाई, 2010

का.आ. 1761.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :-

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 1538:1993 पानी, गैस और मल जल के लिए ढलवां लोहे के दाब पाइपों की फिटिंग—विशिष्ट (तीसरा पुनरीक्षण)	संशोधन संख्या 4 जून, 2010	जून, 2010

इस संशोधन की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002 और क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: एमटीडी 6/T-11]

पी. घोष, वैज्ञानिक 'ई' एवं प्रमुख (एमटीडी)

New Delhi, the 9th July, 2010

S.O. 1761.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and Title of the Standards (s)	No. & year of amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1538:1993 Cost iron fittings for pressure pipes for water, gas and sewage—Specification (<i>third revision</i>)	Amendment no. 4 June, 2010	June, 2010

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manik Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: MTD 6/T-11]

P. GHOSH, Sc 'E' & Head (Met Engg)

नई दिल्ली, 9 जुलाई, 2010

का. आ. 1762.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :-

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 1729:2002 जमीन के ऊपर दबाव रहित नाले के पाइप लाइनों के लिए ढलवाँ लोहे/लन्द लोहे की पाइप एवं फिटिंगें—सॉकेट एवं स्पाइगट श्रेणी (दूसरा पुनरीक्षण)	संशोधन संख्या 4 जून, 2010	जून, 2010

इस संशोधन की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002 और क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: एमटीडी 6/T-14]

पी. घोष, वैज्ञानिक 'ई' एवं प्रमुख (एमटीडी)

New Delhi, the 9th July, 2010

S.O. 1762.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and Title of the Standards (s)	No. & year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1729:2002 Cast iron/ductile iron drainage pipes and pipe fittings for over ground non-pressure pipeline socket and spigot series (second revision)	Amendment no. 4 June, 2010	June, 2010

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: MTD 6/T-14]

P. GHOSH, Sc 'E' & Head (Met Engg)

नई दिल्ली, 9 जुलाई, 2010

का. आ. 1763.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (को) में संशोधन किया गया/किये गये हैं :-

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 10386 (भाग 6):1983 नदी घाटी परियोजनाओं के निर्माण, प्रचालन और रखरखाव की सुरक्षा संहिता : भाग 6 निर्माण	संशोधन संख्या 1 मई, 2010	31 मई, 2010

इन संशोधनों की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002 और क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: डब्ल्यूआरडी 21/T-6]

जे. सी. अरोड़ा, वैज्ञानिक एफ एवं प्रमुख (एमटीडी)

New Delhi, the 9th July, 2010

S. O. 1763.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. Title and year of the Indian Standards	No. & year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 10386 (Part 6):1983 Safety code for construction, operation and maintenance of river valley projects : Part 6 construction	Amendment no. 1 May, 2010	31 May, 2010

Copy of this amendment is available for sale with the Bureau of Indian Standards, Mank Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkatta Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: WRD 21/T-6]

J. C. ARORA, Sc. F & Head (Water Resources Deptt.)

नई दिल्ली, 9 जुलाई, 2010

का. आ. 1764.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (को) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 10386 (भाग 8):1995 नदी घाटी परियोजनाओं के निर्माण, पंचालन और रखरखाव की सुरक्षा संहिता : भाग 8 खुदाई	संशोधन संख्या 1 मई, 2010	30 मई, 2010

इन संशोधनों की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002 और क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: डब्ल्यूआरडी 21/टी-8]

जे. सी. अरोड़ा, वैज्ञानिक 'एफ' एवं प्रमुख (जल संसाधन विभाग)

New Delhi, the 9th July, 2010

S.O. 1764.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No., Title and Year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 10386 (Part 8) : 1995 Safety code for construction, operation and maintenance of river valley projects : Part 8 Open excavation	Amendment No. 1 May, 2010	31 May, 2010

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkatta Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: WRD 21/T-8]

J. C. ARORA, Sc 'F' & Head (Water Resources Deptt.)

कोयला मंत्रालय**आदेश**

नई दिल्ली, 6 जुलाई, 2010

का.आ. 1765.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 2704 तारीख, 29 सितम्बर 2009, जो भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख 3 अक्टूबर, 2009 में प्रकाशित उक्त अधिसूचना (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) से संलग्न अनुसूची में वर्णित भूमि और भूमि में या उस पर के सभी अधिकार उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्मांतिक रूप से केन्द्रीय सरकार में निहित हो गए ;

और, केन्द्रीय सरकार को यह समाधान हो गया है कि साउथ ईस्टर्न कोलफील्ड्स लिमिटेड (जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिये तैयार है ;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि इस प्रकार निहित भूमि जिसका मापमान 257.017 हेक्टर है और उसमें या उस पर के सभी अधिकार, तारीख 3 अक्टूबर, 2009 से केन्द्रीय सरकार में इस प्रकार निरंतर बने रहने की बजाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कम्पनी में निहित हो जाएंगे; अर्थात् :-

(1) सरकारी कम्पनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, ब्याज, नुकसान और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी ;

(2) सरकारी कम्पनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजन के लिये एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता करने के लिये नियुक्त व्यक्तियों के संबंधों में उपगत सभी व्यय, कम्पनी द्वारा वहन किए जाएंगे और इसी प्रकार निहित उक्त भूमि में या उस पर के अधिकार के लिये या उसके संबंध में जैसे अपील आदि सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, इसी प्रकार सरकारी कम्पनी द्वारा वहन किये जाएंगे ;

(3) सरकारी कम्पनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय का क्षतिपूर्ति करेगी जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के संबंध में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्ही कार्यवाहियों के संबंध में आवश्यक हो ;

(4) सरकारी कम्पनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि को और अधिकार को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी ; और

(5) सरकारी कम्पनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिये दिए जाएं या अधिरोपित की जाए, पालन करेगी ।

[फा. सं. 43015/9/2007-पीआरआईडब्ल्यू-1]

एम. शहाबुद्दीन, अवर सचिव

MINISTRY OF COAL

ORDER

New Delhi, the 6th July, 2010

S.O. 1765.—Whereas, on the publication of the notification of the Government of India in the Ministry of Coal number S.O. 2704 dated the 29th September, 2009, published in the Gazette of India, Part-II, Section-3, sub-section (ii) dated the 3rd October, 2009 issued under sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands as all rights in or over the land described in the Schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of Section 10 of the said Act ;

And whereas, the Central Government is satisfied that the South Eastern Coalfields Limited (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf ;

Now, therefore, in exercise of the power conferred by sub-section (1) of Section 11 of the said Act, the Central Government hereby directs that the land measuring of 257.017 hectares and all rights in or over the said lands so vested shall with effect from 3rd October, 2009 instead of continuing to so vest in the Central Government shall vest in the Government company subject to the following terms and conditions, namely :—

1. The Government company shall reimburse to the Central Government all payments made in respect of compensation, interests, damages and the like as determined under the provisions of the said Act ;

2. A Tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the Government company under conditions (1) and all expenditure incurred in connection with any such tribunal and persons appointed to assist the Tribunal shall be borne by the Government company and similarly, all expenditure incurred in respect of all legal proceedings like appeals etc. for or in connection with the rights in or over the said lands, so vesting, shall also be borne by the Government company ;

3. The Government company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vested ;

4. The Government company shall have no power to transfer the said lands and the rights to any other persons without the prior approval of the Central Government ; and

5. The Government company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands, as and when necessary.

[F. No. 43015/9/2007-PRIW-I]

M. SHAHABUDEEN, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 15 जुलाई, 2010

का.आ. 1766.—भारत सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 3231 तारीख 1-12-2008 द्वारा श्री वी. पुनियाकोटी, स्पेशल तहसीलदार को तमिलनाडू राज्य एवं पुडुचेरी केंद्र शासित प्रदेश में मैसर्स गेल

(इण्डिया) लिमिटेड द्वारा पाइपलाइन बिछाने के लिये उक्त अधिनियम के अधीन सक्षम प्राधिकारी के कृत्यों को पालन करने के लिए नियुक्त किया था।

और उक्त श्री वी. पुनियाकोटी का स्थानान्तरण हो गया है और श्री पी. अशोकन स्पेशल तहसीलदार को उनके पद पर नियुक्त किया गया है।

और उक्त श्री वी. पुनियाकोटी का मैसर्स गेल (इण्डिया) लिमिटेड में अतिरिक्त कार्यभार समाप्त कर दिया गया है।

अतः अब, भारत सरकार उक्त अधिनियम की धारा 2 के खंड (क) के अनुसरण में और भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. 3231 तारीख 1-12-2008 को अधिकांत करते हुए, नीचे दी गई अनुसूची के स्तंभ (1) में वर्णित व्यक्ति को उक्त मैसर्स गेल (इण्डिया) लिमिटेड द्वारा पाइपलाइन बिछाने के लिए निम्नलिखित अनुसूची के स्तंभ (2) में वर्णित क्षेत्र में उक्त अधिनियम के अधीन सक्षम प्राधिकारी के कृत्यों को पालन करने के लिए नियुक्त करती है।

अनुसूची

व्यक्ति का नाम और पता	अधिकारिता का क्षेत्र
(1)	(2)
श्री पी. अशोकन स्पेशल तहसीलदार मैसर्स गेल (इण्डिया) लिमिटेड में प्रतिनियुक्ति पर गेल (इण्डिया) लिमिटेड, 172, कमाराजर सलाई, कराइकल-609602	सम्पूर्ण तमिलनाडू एवं पुडुचेरी यूनियन टैरेटरी

[फाइल सं. एल-14014/39/10-जी.पी.]

के. के. शर्मा, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 15th July, 2010

S.O. 1766.—Whereas, in pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Government of India vide Notification in the Ministry of Petroleum and Natural Gas S.O. 3231 dated 1st December, 2008 appointed Shri V. Punniakoti, Special Tehsildar to perform the functions of Competent Authority under the said Act for laying of pipeline by M/s GAIL (India) Ltd., in the State of Tamil Nadu and Union Territory of Puducherry;

And, whereas, Shri Punniakoti has been transferred and Shri P. Asokan has been posted as his incumbent;

And, whereas, the services of the said Shri Punniakoti with M/s GAIL (India) Limited have come to an end;

Now, therefore, in pursuance of clause (a) of Section 2 of the said Act and in supersession of the notification of the Govt. of India, Ministry of Petroleum & Natural Gas vide S.O. 3231 dated 1st December, 2008, Government of India hereby authorizes the person mentioned in column (1) of the schedule given below to perform the functions of the Competent Authority under the said Act for laying pipelines by the said M/s GAIL (India) Limited in the area mentioned in column (2) of the said schedule.

SCHEDULE

Name and Address of the person	Area of Jurisdiction
(1)	(2)
Shri P. Asokan, Special Tehsildar, On deputation to M/s GAIL (India) Ltd., 172, Kamarajar Salai, Karaikal-609602.	Whole State of Tamil Nadu and Union Territory of Puducherry.

[F. No. L-14014/39/10-G.P.]

K. K. SHARMA, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 17 जून, 2010

का.आ. 1767.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स इंडियन एयरलाइन्स लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 14/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-2010 को प्राप्त हुआ था।

[सं. एल-20013/1/2010-आई आर (सी-1)]
अजय कुमार गौड़, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 17th June, 2010

S.O. 1767.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14/2006) of the Central Government Industrial Tribunal-Cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Indian Airlines Limited and their workman, which was received by the Central Government on 17-06-2010.

[No. L-20013/1/2010-IR (C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

PRESENT:—Shri Ved Prakash Gaur, Presiding Officer

Dated the 18th day of March, 2010

Industrial Dispute L. C. No. 14/2006**BETWEEN**

Sri S. K. Buran,
S/o Baleniya,
R/o H. No. 50121/1,
Achampet (M) & (P),
Kumariwada, Mahaboobnagar DistrictPetitioner

AND

1. The Regional Director,
Indian Airlines, Chennai.
2. The Transport Manager,
Indian Airlines Limited,
Southern Region,
HyderabadRespondents

APPEARANCES:

For the Petitioner : M/s. G. Ravi Mohan Kumar, G. Naresh Kumar Vikas Sharma, K. Bhaskar & G. Pavan Kumar, Advocates

For the Respondent : M/s. K. Srinivasa Murthy, V. Uma Devi & G. Praveen Kumar, Advocates

AWARD

This is a case taken under Sec. 2 A (2) of the I. D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. Petitioner filed this petition stating that he was initially appointed as Driver on casual basis on 17-10-95 in Indian Airlines, Hyderabad. Since then he was discharging his duties to the best satisfaction of his superiors. He was appointed by the Transport Manager, Indian Airlines, Hyderabad and was paid Rs.110 per day and he was terminated orally w.e.f. 8-8-98. He prayed this tribunal to set aside the oral termination order dated 8-8-98 and direct the Respondents to reinstate the Petitioner into service with all other attendant benefits.

3. Respondents did not file counter after giving sufficient time. Hence, ex-parte evidence is called from Petitioner. But the Petitioner called absent on 18-3-2010, ex-parte evidence is closed. Hence, Nil Award is passed in absence of any evidence.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 18th day of March, 2010.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
Nil	Nil

Documents marked for the Petitioner

Nil

Documents marked for the Respondent

Nil

नई दिल्ली, 17 जून, 2010

का.आ. 1768.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सहाय एयरलाइन्स लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय

सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 58/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-2010 को प्राप्त हुआ था।

[सं. एल-11012/26/2009-आई आर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th June, 2010

S.O. 1768.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 58/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Sahara Airlines Ltd. and their workman, which was received by the Central Government on 17-06-2010.

[No. L-11012/26/2009-IR (C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Tuesday, the 8th June, 2010

PRESENT : A. N. JANARDANAN, Presiding Officer

Industrial Dispute No. 58/2009

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of M/s. Sahara Airlines Ltd. and their Workman]

BETWEEN

Sri M. Palanivel : I Party/Petitioner

Vs.

1. M/s. Shara Airlines : 2nd Respondent/1st Party
Limited, L- 70/329,
Mahipalpur Extension,
New Delhi-110 037
2. M/s. Sahara India : 2nd Respondent/2nd Party
Commercial Corp. Ltd.,
Sahara India Centre,
8th floor, No. 2,
Kapoorthala Complex,
Aliganj,
Lucknow-226 024
3. M/s. Jet Airways Ltd., : 2nd Respondent/2nd Party
SM Centre, Andheri-
Kurla Road, Andheri
East, Mumbai-400 059

APPEARANCES:

- For the Petitioner : Sri K. Sudalai Kannu
- For the 2nd Respondent/1st Party : M/s. Gupta & Ravi
- For the 2nd Respondent/2nd Party : Shri L. Devraj
- For the 2nd Respondent/3rd Party : M/s. Gupta & Ravi

AWARD

The Central Government, Ministry of Labour vide its Notification No. L-11012/26/2009-IR(CM-I) dated 19-06-2009 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the demand of Sri M. Palanivel for his absorption in Jet Lite by the Management of Jet Airways with reference to the Share Purchase agreement of dated 1-4-2007 entered by the Management of Jet Airways (India) Limited, Sahara India Commercial Corporation Limited and Others and Sahara Airlines Limited is justified and legal? (ii) To what relief is the workman concerned entitled?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 58/2009 and issued notices to both sides. First Party was represented by an Advocate, First and Third Respondents of Second Party were represented by Advocates and Second Respondent of Second Party was represented by an Authorized Representative. The petitioner filed Claim Statement. No Counter Statement has been filed by any of the Respondents,

3. The sum and substance of the Claim Statement is as follows:

The petitioner appointed as a Loader on casual basis on 27-1-1994 with last drawn salary of Rs. 7,638 by the First Respondent later fully acquiring whose shares by Third Respondent as per letter dated 20-4-2007 was informed to be on deputation with the R1 which is incorrect. R2 as per letter dated 19-05-2007 paying Rs. 40,000 to the petitioner as Ex-Gratia and also acknowledging petitioner as workman of R1 was further issued with letter dated 1-6-2007 by R2 with whom there is no privity of contract and informed petitioner's relief from deputation and also requiring him to report to Sub-Office, Tenali, Andhra Pradesh which order is invalid. There he had no work and he came back. The petitioner is now not gainfully employed. There is no basis to shunt the petitioner out of employment. The establishment at Chennai covered under Section-25N of I. D. Act employing more than 100 workers and hence the termination amounting to retrenchment by R1 and R3 not complying with the provisions under Section-25N of

the I. D. Act failure to which the termination is void abinitio. There is no legal or factual justification for the termination. Hence the prayer for reinstatement and absorption.

4. Points for consideration are:

(i) Whether the demand for the absorption of the petitioner in Jet Lite by Jet Airways (India) is justified and legal?....

(ii) To what relief the concerned workman is entitled?

Points No.1 & 2

5. When the I.D. stood posted to today for further proceeding the petitioner appeared in person and filed a petition supported by Affidavit, both signed by him praying for withdrawing the dispute. It is averred that the dispute has been settled with the Management and he has collected his full and final payment of the dues. He has also stated that he has forgone the right for reinstatement.

6. On a consideration of the request of the petitioner supported by the written application and affidavit sworn to in support thereof that the dispute has been settled between the parties in consideration of the full and final payment of dues thereof having been realized by him he be permitted to withdraw the dispute in the wake of the repeated appeal of this Tribunal before the parties to have the dispute amicably settled and the petitioner having effected out of court settlement of the dispute and having collected the dues in terms thereof and having forgone the right for reinstatement as was originally claimed the prayer is only to be accorded.

7. Accordingly the petitioner is permitted to withdraw the dispute. In view of the fact that the withdrawal is in lieu of agreed monetary compensation with due receipt thereof acknowledged by the petitioner and his claim for absorption being given up no question further survives as to the demand for the absorption as being whether legal and justified.

8. The reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 8th June, 2010)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined:

For the I Party/Petitioner None

For the II Party/Petitioner None

Documents Marked:

On the Petitioner's side

EX.No.	Date	Description
	Nil	

On the Management's side

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 17 जून, 2010

का.आ. 1769.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सहारा एयरलाइन्स लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चैन्नई के पंचाट (संदर्भ संख्या 62/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-2010 को प्राप्त हुआ था।

[सं. एल-11012/30/2009-आई आर (सी-1)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th June, 2010

S.O. 1769.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 62/2009) of the Central Government Industrial Tribunal Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Sahara Airlines Limited and their workman, which was received by the Central Government on 17-6-2010.

[No. L-11012/30/2009-IR (C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI

Tuesday, the 8th June, 2010

Present : A. N. JANARDANAN, Presiding Officer

INDUSTRIAL DISPUTE No. 62/2009

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of M/s Sahara Airlines Ltd. and their Workman)

BETWEEN

Sri R. Ravindra Babu : I Party/Petitioner

Vs.

1. M/s. Sahara Airlines : 2nd Respondent/1st Party
Limited, L- 70/329,
Mahipalpur Extension
New Delhi-110037

2. M/s. Sahara India / : 2nd Respondent/2nd Party
Commercial Corp. Ltd.
Sahara India Centre,
8th floor No. 2,
Kapoorthala Complex
Aliganj
Lucknow- 226024
3. M/s. Jet Airways Ltd : 2nd Respondent/3rd Party
SM Centre, Andheri-
Kurla Road, Andheri
East, Mumbai-400059

APPEARANCE :

- For the Petitioner : Sri K. Sudalai Kannu
- For the 2nd Respondent/1st Party : M/s. Gupta & Ravi
- For the 2nd Respondent/2nd Party : Shri V. Devraj
- For the 2nd Respondent/3rd Party : M/s. Gupta & Ravi

AWARD

The Central Government Ministry of Labour vide its order No.L-11012/30/2009-IR(CM-I) dated 19-6-2009 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the demand of Sri Ravindra Babu for his absorption in Jet Lite by the Management of Jet Airways with reference to the Share Purchase agreement of dated 1-4-2007 entered by the Management of Jet Airways (India) Limited, Sahara India Commercial Corporation Limited and Others and Sahara Airlines Limited is justified and legal? (ii) To what relief is the workman concerned entitled?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 62/2009 and issued notices to both sides. First Party was represented by an Advocate, First and Third Respondents of Second Party was represented by an Advocate and Second Respondent of Second Party was represented by an Authorized Representative. The petitioner filed Claim Statement. No Counter Statement has been filed by any of the Respondents,

3. The sum and substance of the Claim Statement is as follows:

The petitioner appointed as a Loader on casual basis on 4-6-2000 and later confirmed on 1-9-2001 with last drawn salary of Rs. 7,579 by the First Respondent later fully acquiring whose shares by Third Respondent as per letter

dated 20-4-2007 was informed to be on deputation with the R1 which is incorrect. R2 by letter dated 19-5-2007 paying Rs. 22,500 to the petitioner as Ex-Gratia and also acknowledging petitioner as workman of R1 was further issued with letter dated 1-6-2007 by R2 with whom there is no privity of contract and informed petitioner's relief from deputation and also requiring him to report to Sub-Office, Thorur Warangal District, Tenali, Andhra Pradesh which order is invalid. There he had no work and he came back. The petitioner is now not gainfully employed. There is no basis to shunt the petitioner out of employment. The establishment at Chennai covered under Section-25N of I. D. Act employing more than 100 workers and hence the termination amounting to retrenchment by R 1 and R3 not complying with the provisions under Section-25N of the I. D. Act failure to which the termination is void abinitio. There is no legal or factual justification for the termination. Hence the prayer for reinstatement and absorption.

4. Points for consideration are:

- (i) Whether the demand for the absorption of the petitioner in Jet Lite by Jet Airways (India) is justified and legal?....
- (ii) To what relief the concerned workman is entitled?

Points No.1 & 2

5. When the I. D. stood posted to today for further proceeding the petitioner appeared in person and filed a petition supported by Affidavit, both signed by him praying for withdrawing the dispute. It is averred that the dispute has been settled with the Management and he has collected his full and final payment of the dues. He has also stated that he has forgone the right for reinstatement.

6. On a consideration of the request of the petitioner supported by the written application and affidavit sworn to in support thereof that the dispute has been settled between the parties in consideration of the full and final payment of dues thereof has been realized by him he be permitted to withdraw the dispute in the wake of the repeated appeal of this Tribunal before the parties to have the dispute amicably settled and the petitioner having effected out of court settlement of the dispute and having collected the dues in terms thereof and having forgone the right for reinstatement as was originally claimed the prayer is only to be accorded.

7. Accordingly the petitioner is permitted to withdraw the dispute. In view of the fact that the withdrawal is in lieu of agreed monetary compensation with due receipt thereof acknowledged by the petitioner and his claim for absorption being given up no question further survives as to the demand for the absorption as being whether legal and justified.

8. The reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 8th June, 2010)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined:

For the I Party/Petitioner None
For the II Party/Petitioner None

Documents Marked:

On the Petitioner's side

EX.No.	Date	Description
	Nil	

On the Management's side

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 17 जून, 2010

का.आ. 1770.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सहारा एयरलाइन्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 56/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-2010 को प्राप्त हुआ था।

[सं. एल-11012/24/2009-आई आर (सी-1)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th June, 2010

S.O. 1770.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 56/2009) of the Central Government Industrial Tribunal-Cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Sahara Airlines Limited and their workman, which was received by the Central Government on 17-06-2010.

[No. L-11012/24/2009-IR(C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 8th June, 2010

Present : A. N. JANARDANAN, Presiding Officer

INDUSTRIAL DISPUTE No. 56/2009

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of M/s Sahara Airlines Ltd. and their Workman)

BETWEEN

Sri L. Yesurathinam : I Party/Petitioner
Vs.

1. M/s. Shara Airlines : 2nd Respondent/1st Party
Limited, L- 70/329,
Mahipalpur Extension
New Delhi-110037
2. M/s. Sahara India : 2nd Respondent/2nd Party
Commercial Corp. Ltd.
Sahara India Centre,
8th floor No. 2,
Kapoorthala Complex
Aliganj
Lucknow- 226024
3. M/s. Jet Airways Ltd : 2nd Respondent/3rd Party
SM Centre, Andheri-
Kurla Road, Andheri
East, Mumbai-400059

Appearance:

For the Petitioner : Sri K. Sudalai Kannu
L. Kalaieswaram
For the 2nd Respondent/1st : M/s. Gupta & Ravi
Party
For the 2nd Respondent/2nd : M/s V. Devraj (AR)
Party
For the 2nd Respondent/3rd : M/s. Gupta & Ravi
Party

AWARD

The Central Government Ministry of Labour vide its Notification No.L-11012/24/2009-IR(CM-I) dated 19-06-2009 referred the following Industrial Dispute to this Trinunal for adjudication.

The schedule mentioned in that order is :

“Whether the demand of Shri L. Yesurathinam for his absorption in Jet Lite by the Management of Jet Airways with reference to the Share Purchase agreement of dated 1-04-2007 entered by the Management of Jet Airways (India) Limited, Sahara India Commercial Corporation Limited and Others

and Sahara Airlines Limited is justified and legal? (ii) To what relief is the workman concerned entitled?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 56/2009 and issued notices to both sides. First Party was represented by an Advocate, First and Third Respondents of Second Party were represented by Advocates and Second Respondent of Second Party was represented by an Authorized Representative. The petitioner filed Claim Statement. No Counter Statement has been filed by any of the Respondents,

3. The sum and substance of the Claim Statement is as follows:

The petitioner appointed as a Loader on casual basis on 1-9-1996 and later confirmed on 1-9-1997 with last drawn salary of Rs. 7,989 by the First Respondent later fully acquiring whose shares by Third Respondent as per letter dated 20-4-2007 was informed to be on deputation with the R1 which is incorrect. R2 by letter dated 19-5-2007 paying Rs. 32,500 to the petitioner as Ex-Gratia and also acknowledging petitioner as workman of R1 was further issued with letter dated 1-6-2007 by R2 with whom there is no privity of contract and informed petitioner's relief from deputation and also requiring him to report to Sub-Office, Mehboobnagar, Andhra Pradesh which order is invalid. There he had no work and he came back. The petitioner is now not gainfully employed. There is no basis to shunt the petitioner out of employment. The establishment at Chennai covered under Section-25N of I. D. Act employing more than 100 workers and hence the termination amounting to retrenchment by R1 and R3 not complying with the provisions under Section-25N of the I. D. Act failure to which the termination is void ab initio. There is no legal or factual justification for the termination. Hence the prayer for reinstatement and absorption.

4. Points for consideration are:

(i) Whether the demand for the absorption of the petitioner in Jet Lite by Jet Airways (India) is justified and legal?

(ii) To what relief the concerned workman is entitled?

Points No.1 & 2

5. When the I.D. stood posted to today for further proceeding the petitioner appeared in person and filed a petition supported by Affidavit, both signed by him praying for withdrawing the dispute. It is averred that the dispute has been settled with the Management and he has collected his full and final payment of the dues. He has also stated that he has forgone the right for reinstatement.

6. On a consideration of the request of the petitioner supported by the written application and affidavit sworn to in support thereof that the dispute has been settled between the parties in consideration of the full and final

payment of dues thereof having been realized by him and he be permitted to withdraw the dispute in the wake of the repeated appeal of this Tribunal before the parties to have the dispute amicably settled and the petitioner having effected out of court settlement of the dispute and having collected the dues in terms thereof and has forgone the right for reinstatement as was originally claimed the prayer is only to be accorded.

7. Accordingly the petitioner is permitted to withdraw the dispute. In view of the fact that the withdrawal is in lieu of agreed monetary compensation with due receipt thereof acknowledged by the petitioner and his claim for absorption being given up no question further survives as to the demand for the absorption as being whether legal and justified.

8. The reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 8th June, 2010)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined:

For the I Party/Petitioner None

For the II Party/Petitioner None

Documents Marked:

On the Petitioner's side

EX.No.	Date	Description
	Nil	

On the Management's side

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 17 जून, 2010

का.आ. 1771.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रेसर्स बी.सी. सी.एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 1, धनबाद के पंचाट (संदर्भ संख्या 263/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-2010 को प्राप्त हुआ था।

[सं. एल-20012/421/2001-आई आर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th June, 2010

S.O. 1771.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 263/

2001) of the Central Government Industrial Tribunal-cum-Labour Court, -1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 17-06-2010.

[No. L-20012/421/2001-IR (C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

Present: H. M. Singh, Presiding Officer

In the matter of an Industrial Dispute under
Section 10(1)(d) of the I.D. Act, 1947

Reference No. 263 of 2001

Parties: Employers in relation to the
Management of Katras Area of M/s.
BCCL and their workman.

Appearances:

On behalf of the workman : None
On behalf of the employers : Mr. D.K. Verma.
Advocate
State : Jharkhand : Industry : Coal.

Dated, Dhanbad, the 3-6-2010

AWARD

The Government of India, Ministry of Labour is exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/421/2001-IR(C-I) dated, the 29th November, 2001.

SCHEDULE

"Whether the action of the management of Katras Area of M/s. BCCL in dismissing Sri Saguni Beldar from the services of the company w.e.f. 10-8-1994 is justified? If not, to what relief is the concerned workman entitled?"

2. On course of hearing of the instant reference the concerned workman involved in the dispute expired and the workman side was to file substitution petition. In spite of granting adjournments they have failed to file the substitution petition. It, therefore, appears that they are not interested to contest the case. Under such

circumstances a 'No dispute' Award is passed presuming non-existence of any industrial dispute between the parties.

H. M. SINGH, Presiding Officer

नई दिल्ली, 17 जून, 2010

का.आ. 1772.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सी.सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 1, धनबाद के पंचाट (संदर्भ संख्या 258/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-2010 को प्राप्त हुआ था।

[सं. एल-20012/463/2001-आई आर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th June, 2010

S.O. 1772.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 258/2001) of the Central Government Industrial Tribunal-cum-Labour Court, -1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. C.C.L. and their workman, which was received by the Central Government on 17-6-2010.

[No. L-20012/463/2001-IR (C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, AT DHANBAD

Present: Shri H. M. Singh, Presiding Officer

In the matter of an Industrial Dispute under
Section 10(1)(d) of the I.D. Act, 1947

Reference No. 258 of 2001

Parties: Employers in relation to the
Management of Bachra Colliery of M/s.
C. C. L. and their Workman.

Appearances:

On behalf of the workman : Shri K.N. Singh,
Vice. President,
Janta Majdoor Sangh
On behalf of the employers : Shri D.K. Verma.
Advocate
State : Jharkhand : Industry : Coal.

Dated, Dhanbad, the 4-6-2010

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/463/2001-IR (C-1), dated, the 29th November, 2001.

SCHEDULE

“Whether the dismissal of the workman Sri Suka Oran, Trammer, from service by the management of Bachra Colliery of M/s. Central Coalfields Limited, P.O. Bachra, Distt. Chatra w.e.f. 30-7-1998 is proper and justified? If not, to what relief is the workman concerned entitled?”

2. In the Written Statement submitted on behalf of the concerned workman is that Sri Suka Oran, a permanent Trammer was served with a chargesheet on 6-2-1998 and subsequently has been dismissed from service w.e.f. 3-7-98. The chargesheet was issued to him vide letter No. P.O.(B)/Pd/Absent/11 b/98/11550-54 dated 24-6-97 on the allegation of overstaying without sanctioned leave and any further intimation to the management. The concerned workman submitted his reply on 17-2-98 denying the allegation but without considering the same, he has been suspended with immediate effect and the domestic enquiry in this regard was conducted.

3. It has been alleged by the workman that the concerned workman has not been given chance and opportunity to prove the genuinity about his absent and knowingly and deliberately the management has dismissed him from service on the basis of ex-parte decision. The chargesheet is evidently vague, unspecific in as much as it does not reveal the precise nature of misconduct alleged against the workman. The enquiry was conducted exparte and subsequently the concerned workman has been dismissed from service on preserved and prejudicial finding of the enquiry officer w.e.f. 30-7-98 vide No. 98/3873/86.

4. It has been stated by the concerned workman that as a matter of fact the concerned workman was on leave since 24-6-97 to 4-7-97 due to the death of his mother and further proceeded on sanctioned leave informing the management in frequent interval. Thereafter an industrial dispute has been raised in the office of the ALC(C), Dhanbad for relief of resumption of duties and payment of wages on 23-2-2001 and the dispute was therefore converted into dispute against dismissal vide I.D. 1-6-2001-ALC (C) dated 27-2-2001 which ultimately resulted reference to this Tribunal-1 for adjudication. It has been prayed on behalf of the workman to pass an Award holding that the action of the management in dismissing the

concerned workman as not justified and pass an Award for reinstatement of the workman in service with full back wages from the date of dismissal.

5. In the Written Statement filed by the management it has been stated that the concerned workman proceeded on leave from 24-6-1997 to 4-7-1997 and thereafter remained absent from his duty in continuation of his leave and having not received any information a chargesheet bearing No. 1130—54, dated 5/6-2-98 for long unauthorised absence has been issued in terms of the relevant provision of the Standing Orders in vague at the relevant time. The concerned workman submitted his reply dated 17-2-98 stating the reason of his absence. Thereafter the concerned workman submitted a letter stating therein that he became in same. On receipt of the reply management advised him to report to the Medical Officer, Bachra, so that his case could be referred for specialised treatment, if felt required. But the concerned workman has not reported to the Medical Officer of Bachra regarding his treatment.

6. However, the management considered the reply of the concerned workman and found the same not satisfactory and accordingly initiated a departmental enquiry by appointing an Enquiry Officer. The concerned workman failed to appear in the enquiry proceeding inspite of issuance of enquiry notice issued by the Enquiry Officer. As a result, the Enquiry Officer conducted Ex-parte enquiry and submitted his report holding the concerned workman guilty of the charges. The Disciplinary authority considering the chargesheet, enquiry proceeding and the enquiry report dismissed the concerned workman from service. According to the management the dismissal of the concerned workman is legal and justified.

7. It has been submitted by the management that the fairness and propriety of the domestic enquiry may be decided as a preliminary issue and in case if it is held that the enquiry is not fair and proper, they may be allowed to adduce a fresh evidence to prove the charges.

In view of the facts it has been prayed on behalf of the management to pass an Award rejecting the claim of the concerned workman.

8. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paras of each other's Written Statement.

9. Before taking up the case for hearing on merit fairness and propriety of the domestic enquiry was heard as a preliminary issue in which enquiry proceeding papers are marked as Exts. M-1 to M-13. However, this Tribunal after hearing both sides held vide Order No. 8 dated 28-5-2003 that the domestic enquiry conducted against the concerned workman was fair, proper and in accordance

with the principle of natural. Thereafter the case was heard on merit.

10. Main argument advanced on behalf of the concerned workman is that he has submitted his explanation regarding his absence from duty but it has not been considered by the management. It has also been submitted on behalf of the concerned workman that he was also acquitted in the offence under Section 364, 302 and 201 read with 34 of the I.P.C. by the Sessions Court in sessions case No. 575/98 dated 25-9-2006. It has also been argued that he was implicated in a false case due to village enmity. He has stated that he had gone on 24-6-97 taking leave of 10 days upto 4-7-97 and after reach home he found his mother died and after that his wife became ill and he got treatment. For this reason he has given application by registered post on 4-7-97 vide registered letter No. 5088 but that has not been considered by the management. After that he has given another letter on 4-7-98 by registered letter No. 312. Thereafter he has given a number of letters that he should not be dismissed from service. But management ignoring his application dismissed him from service. It shows that dismissal from service of said workman when his mother died, when his wife became ill and when he has informed by registered letter shows that management has awarded him excess punishment by dismissing him from service. He could be punished by the management by stoppage of increment withholding pay and otherwise but not by dismissing from service which is too harsh.

In view of the facts, circumstances and evidence discussed above I find management was not justified in dismissing the concerned workman from service. Accordingly, following Award is rendered :

“No dismissal of the workman, Sri Saka Oran, Trammer from service by the management of Bachra Coillery of M/s. Central Coalfields Limited, P.O. Bachra, Distt. Chetra, w.e.f. 30-7-1990 is not proper and not justified. Consequently the concerned workman is entitled to be reinstated in his service without back wages.

H. M. SINGH, Presiding Officer

नई दिल्ली, 17 जून, 2010

का.आ. 1773.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 1, धनबाद के पंचाट (संदर्भ संख्या 115/1990) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-2010 को प्राप्त हुआ था।

[सं. एल-20012/201/1989-आई आर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th June, 2010

S.O. 1773.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 115/1990) of the Central Government Industrial Tribunal -Cum-Labour Court-1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 17-06-2010.

[No. L-20012/201/1989-IR(C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference Under Section 10(1)(d)(2A) of I.D. Act

Reference No. 115 of 1990

Parties : Employers in relation to the management of Moluda Coal Washory of M/s. BCCL

and

Their Workmen

Present : Shri H. M. Singh, Presiding Officer

APPEARANCES :

For the Employers : None

For the Workmen : None

State : Jharkhand : Industry : Coal.

Dated, the 9-6-2010

AWARD

By Order No. L-20012(201)/89-IR (Coal-I) dated 8-5-1990 the Central Government in the Ministry of Labour has, in exercise of the powers, conferred by clause (d) of sub-sec.(1) and sub-sec. (2A) of Sec. 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal.

“Whether Shri Dharendra Nath Kumbhkar and 21 others are employees of the management of M/s. Bharat Coking Coal Ltd. in relation to Moluda Coal Washory and whether their demand for regularisation in the services of the management is justified ? If so, to what relief the concerned workman are entitled to?”

2. The written statement has been filed by the workman stating that they have been working under BCCL since long and doing the job of fabrication, erection and to start functioning of the Moluda Washery Project which have been undertaken by M/s. Ne-Nelly Bharat Engineering Co. on turn-key basis and for the purpose of the workers mentioned in the reference have been jointly appointed by M/s. BCCL as the principal employer and M/s. Ne-Nelly Bharat Engineering Co. as immediate employer under M/s. Ne-Nelly B.E. Co. there were several sub-contractors namely, M/s. Malhotra Construction Co. Asha Construction etc. As per Rule 76 of the Contract Labour (Regularisation & Abolition) Contract Rules, Employment Cards have been issued by M/s. Ne-Nelly Bharat Engineering Company on behalf of BCCL, the principal employer. It has been submitted that since the nature of job performed by the concerned workman are permanent in nature and their services will be required even after the commencement of the functioning of the Washery Project, their employment are prohibited under the Contract Labour (Regulation & Abolition) Act but in order to deprive these workmen of their regularisation in the services of BCCL a malafide, arbitrary and illegal attempt has been made jointly in collaboration and connivence with both the management aforesaid in order to frustrate the intent and purpose of the legislation and Contract Labour (Regulation & Abolition) Act, 1970. Even the demand of the concerned workman for their regularisation in the service in M/s. BCCL was not settled in conciliation proceeding. Thereafter the matter has been referred to this Tribunal for adjudication.

It has been prayed before this Tribunal to please pass an award in favour of the workman holding that the demand of the workman for regularisation in the services of M/s. BCCL is justified and they are entitled to be regularised with all incidental benefits with retrospective effect.

3. The management has filed written statement-cum-rejoinder stating that the reference is not legally maintainable. There exists no employer-employee relation between the management and concerned workmen. It has been stated that the BCCL awarded a turn-key contract job to M/s. Ne-Nelly Bharat Engineering Co. Ltd., Rumardhubi, Dist. Dhanbad for constructing the washery at Moluda. As per the terms of contract M/s. Ne-Nelly Bharat Engineering Co. Ltd. was at liberty to engage sub-contractors for timing and completing the works. After the contractual job was never, the washery was taken over by the management for production purpose. Since the employer-employee relationship never exists between the management and the workman in such cases the workman have no legal right to claim employment from the management. It has been submitted that contractors recruit their workman to execute the contract work as per the work order and after completion of the work their services also

terminated. This happened in this case as well. Thus the contractors workers were engaged on casual basis and were purely temporary. As per terms and conditions of the contract it was not obligatory on the part of the management to take the contractor's workers in the employment of the company. Dharendra Nath Kumbhakar and 21 others were never engaged by the management in a job prohibited under Contract Labour (Regulation & Abolition) Act, 1970. As the job of the workmen in question was temporary as per Contract with M/s. Ne-Nelly Bharat Engg. Co. Ltd. the contention that their job was of a permanent nature is more figment of imagination false and baseless contrary to the facts of the case. The demand of the union for regular employment of Dharendra Nath Kumbhakar and 21 others contained in the schedule has no basis at all.

In rejoinder to the written statement of the workman the management has stated almost facts as have been stated in the written statement.

It has been prayed before this Tribunal to pass an award holding that the demand of the union is not justified and the concerned workmen are not entitled to any relief.

4. The rejoinder has been filed on behalf of the workman stating the same facts as have been stated in their written statement.

5. The concerned workmen have produced WW-1, Dharendra Nath Kumbhakar, who has proved documents, Exts. W-1 to W-3. The concerned workmen also produced WW-2, Mahatab Ansari and WW-3, Pramod Kumar Srivastava.

The management has produced MW-1, J. K. Banerjee, The management also produced MW-2, Z. Mahmood, who has proved xerox copy of letter addressed Bharat Engineering Co. by Malhotara Construction Company, marked for 'X' for identification and also xerox copy of documents of Malhotra Construction Company, marked 'X' series for identification. The management also examined MW-3, Abhinesh Chandra Saran.

6. Notices were sent to the parties for hearing of oral argument on 25-6-09 fixing the date on 9-9-09, though they have filed written arguments.

7. Main arguments advanced on behalf of the concerned workman that they are working with the management of BCCL and they should be regularised. It has also been stated that all the workmen are working at Moluda Washery Project under BCCL from the years 1983 to 1989.

8. The management argued that they are not workers of the management. It has been argued that the workers have been engaged by the contractor for doing construction work at Moluda Washery, on contractual basis. After the

contractual job was over, the washery was taken over by the management for production purpose. As the workers are not the employees of the management they can not be regularised.

Another argument advanced on behalf of the concerned workman Identity Cards have been issued by the management so they are the employees of the management.

The management has argued that Identity Card is also issued even to the contractor workman even for construction of building because if anything happens it will be responsible of the management. On this basis they cannot be presumed that they are employees of the management.

There is force in the argument of the management because no appointment letter has been filed by the concerned workman to show that they were appointed by the management.

9. WW-1, Dharendra Nath Kumbekar, stated in cross-examination at page 3 that "we have not given any letter of appointment of the management of BCCL."

Another argument advanced on behalf of the management that they have not filed any paper to show that they are getting wages from the management.

WW-1, Dharendra Nath Kumbekar stated that "We have got papers to show that some of us worked from 1981 and some from 1983 till 1989. I have not brought that papers to-day". It shows that they want to show that they are workmen of the management. WW-2, Mahatab Ansari, in cross-examination at page-2 stated that since BCCL did not give us any letter of appointment it is not possible for us to produce the same.

Now I have been working as Rigger under the contractor. This statement of the concerned workmen shows that they are workmen of the contractor and not workmen of the management. WW-3, Promod Kumar Srivastava, stated in cross-examination at page 2 that "we did not get any letter of appointment from BCCL. I have seen the stamp of Malhotra Construction under the certificate in respect of wages." It shows that they are getting wages from Malhotra Construction and they are not the workman of the management so that they can be regularised.

10. Papers filed by the management which has been marked 'X' for identification, shows that Malhotra Construction Co. allotted the work to the workers by Mc Hally Bharat Engineering Co. Ltd. to whom again contract was given for construction of washery by the management and 'Ext.X/1' for identification shows that the workman

has received payment. The attendance is also marked by Malhotra Construction Company and there is also agreement for design, engineering, manufacturing, supplying etc. With Malhotra Construction Company which have been filed by the management. The concerned workman has filed Attendance Card which has been given by Malhotra Construction Company which have been marked Exts. W-1 to W-1/11. In this respect the concerned workmen, WW-1 and WW-2 stated that they are not the workman of Malhotra Construction Company and they never worked with them. But there is documentary proof that cannot be believed. These documents show that the attendance issued by Malhotra Construction Company, Exts. W-1 to W-1/11.

11. Another argument advanced on behalf of the workmen that in similar nature of case an award has been passed in Reference No. 58/81 by the Tribunal in favour of the workman and they have been regularised in service. So they should also be regularised in service. But the facts are different, so on this basis the concerned workman cannot be regularised.

Regarding Identity Card as per Ext. W-4 to W-6, it only shows that Identity Card issued by the management only for safety of the management's premises. So in this respect the signature of the Agent of the company has also been made because if they are employees of the management then there is no need for signature of the company's Agent. Moreover, Ext. W-6 and W-5 also show that it was valid upto 31-3-85 and 31-10-84. It only shows that it was issued only for temporary basis for construction work of the management. If this identity Card has been issued for regular employee then this should not had been mentioned 31-10-84 and 31-3-85 Ext. W-7 shows that the certificate issued by the management for M/s, Mc Hally Bharat, Engineering Co. Ltd. It only proves that construction work has been allotted by the management for M/s. Mc Hally Bharat Engineering Co. Ltd. for which payment has been made to M/s. Mc Hally Bharat Engineering Co. Ltd. It only shows that they have been engaged by Malhotra Construction Co. to whom construction work has been allotted by the management.

12. In view of the discussions made above, I hold that the demand of the workmen for regularisation in the services of M/s. BCCL is not justified.

13. Accordingly, I render the following award—

That Shri Dharendra Nath Kumbekar and 21 others, mentioned in the schedule of reference, are employees of the management of M/s. BCCL in relation to the Moluda Coal Washery and their demand for regularisation in the service of the management is not justified. So, the concerned workmen are not entitled to any relief.

H.M. SINGH, Presiding Officer

नई दिल्ली, 17 जून, 2010

SCHEDULE

का. आ. 1774.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स टिस्को के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, सं. 1 धनबाद के पंचाट (संदर्भ संख्या 195/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-2010 को प्राप्त हुआ था।

[सं. एल-20012/33/2000-आई आर(सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th June, 2010

S.O. 1774.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 195/2000) of the Central Government Industrial Tribunal-cum-Labour Court, -1, Dhanbad as shown in the annexure, in the industrial dispute between the employers in relation to the management of M/s. TISCO and their workmen, which was received by the Central Government on 17-6-2010.

[No. L-20012/33/2000-IR(C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 DHANBAD

Present : Shri H. M. SINGH, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 195 OF 2000

PARTIES : Employer in relation to the management of Tisco and their workman.

APPEARANCES:

On behalf of the workman : Shri Samrendra Sinha, Advocate.

On behalf of the employers : Shri D. K. Verma, Advocate.

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 1st June, 2010

AWARD

The Govt. of India Ministry of labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/33/2000 (C-I), dated, 29th June, 2000.

“ Whether the action of the management of Sijua Colliery of M/s. Tisco in dismissing the services Sh. Ram Avtar, Beldar w. e. f. 14-12-1992 is legal, justified and fair ? If not to what relief the concerned workman is entitled?”.

2. In the written statement filed by the workman it has been stated that the concerned workman Shri Ram Avtar Beldar was a permanent workman of Sijua Colliery of the management. He was working as a Mechanical Fitter. His date of appointment was 1-1-1962 and his date of birth was 1-7-1935. He was allotted Ticket No. 56569. The management Sijua Colliery issued a chargesheet in the name of the concerned workman for an alleged act of absenting from duty for more than 10 days w.e.f. 26-9-1992. The management held an exparte enquiry into the chargesheet and dismissed the concerned workman w.e.f. 14-12-1992.

3. It has been further stated by the workman that on 24-9-1992 the concerned workman was in ‘B’ shift duty commencing from 4.00 p.m. to 12.00 mid night. After completion of his duty on 24-9-1992 he came to know on 25-9-1992 that he has been implicated in a murder case due to political reasons. The workman being afraid of manhandling by the members of interested political parties and out of fear of arrest by the police he left his house to take shelter elsewhere for his safety. But he sent an application to the management through his family members stating the above mentioned reasons for leaving his house. The said application was received in the office of the management. But the management, instead of granting him leave took this opportunity to dismiss the concerned workman from his service in connivance with the interested political party. The management silently issued a chargesheet in the name of the concerned workman for an alleged act of absenting from duty for more than 10 days.

4. Thereafter, when the concerned workman came to know that a chargesheet was issued in his name he wrote a letter to the management on 25-11-1992 seeking only two months time to appear at the enquiry. The said letter dated 25-11-1992 of the workman was received by the management on 7-12-1992. Even then the enquiry officer did not consider the prayer of the concerned workman and dismissed him from his services w.e.f. 14-12-1992 after holding an exparte departmental enquiry. The concerned workman was not afforded any opportunity to defend himself, to adduce evidence in his support and to cross-examine the management witness and in utter violation of the principles of natural justice the enquiry was held. It has been alleged by the workman that the enquiry proceeding was completed within 39 days only i.e. from 2-11-1992 to 11-12-1992.

5. It has been further stated by the workman that after the tension of murder was over the concerned workman surrendered before the Court and he was enlarged on bail

and on the same day on 1-3-1993. He was never taken into custody. The concerned workman thereafter approached the management to reinstate him in his service which the management did not consider. Since the concerned workman has crossed the 60 years of age, his normal retirement age was 3-7-96. On his reinstatement he may be treated as on duty from 14-12-92 to 3-7-96. The workman side has prayed to pass an Award directing the management to reinstate him with full back wages and all other consequential benefits.

6. In the written statement filed on behalf of the management it has been stated therein that the reference is not legally maintainable. The concerned workman was appointed on 1-1-62 and his date of birth as per the Company's record was 1-7-1935. Accordingly he crossed the age of superannuation with effect from 30-6-95. After a workman has reached the age of superannuation, no industrial dispute can be raised by him or by any union on his behalf as employer-employee relationship ceases from the date of superannuation. A no industrial dispute can exist after the superannuation of a workman, he has no right to raise any dispute U/s. 2A of the I.D. Act., 1947. The present reference is arising on the basis of individual dispute raised by the concerned workman Sri Ram Avtar Beldar, and as such the present reference is liable to be summarily rejected.

7. It has been stated by the management that the concerned workman was dismissed from his services with effect from 14-12-92 and raising of the dispute in the year 2000 is not legally maintainable in view of inordinate delay and laches in the matter of raising the present dispute.

8. Management have stated that the concerned workman started absenting from his duties without permission and without satisfactory cause with effect from 26-9-92 and the management issued him the chargesheet No. 228 dated 2-11-1992 for commission of the misconduct of unauthorised absence from duties under clause 19(16) of the certified standing order of the company. The chargesheet was sent to his home address under registered post as he could not be traced in the colliery premises and at his local address and the registered cover containing the chargesheet was not returned back which led to the presumption that the concerned workman received the chargesheet at his home address. The concerned workman did not submit any reply to the aforesaid chargesheet, as a result, the management appointed Sri A.K. Saran, Assistant Manager (Personnel) Sijua Colliery for conducting the departmental enquiry relating to the chargesheet issued to the concerned workman. A copy of the letter dated 9-11-92 was sent to the concerned workman for attending the enquiry on 18-11-92 at 9 a.m. in the office of the Assistant Manager (Personnel) Sijua Colliery. The concerned workman did not appear on the date fixed for his enquiry.

9. That the Enquiry Officer issued notice dated 18-11-92 fixing the date of enquiry on 27-11-92 in his office and the concerned workman did not appear in the enquiry even on 27-11-92. The notice of enquiry was also published in the local newspaper 'Awaj' dated 24-11-92 having wide circulation but the concerned workman did not attend the enquiry on 27-11-92 as well. The Enquiry Officer conducted the enquiry on 27-11-92 and submitted his enquiry report holding the concerned workman guilty of the charges levelled against him. Accordingly the concerned workman was dismissed from his services by letter dated 11-12-92 for commission of the misconduct under clause 19(16) of the Certified Standing Orders of the company. His dismissal took effect from 14-12-92.

10. The Union of the concerned workman took up the matter with the management for setting aside the dismissal order and a meeting in this connection was held on 11-3-93. The management considering the matter allowed the concerned workman to be reemployed maintaining continuity of service after observing his satisfactory performance for a period of one year. Accordingly the concerned workman presented himself before the management and expressed his difficulties in performing his original job as mechanical fitter on account of his blood pressure and defective vision and accordingly he was directed to appear before the Medical Board which examined on 16-6-93 and submitted its report as follows :—

"A case of hypertension and defective vision. Advised to consult Physical and eye surgeon and reappear before medical board after three weeks for review."

Sri Beldar was again examined by the Medical Board on 7-7-93 and the observation of the medical board are as follows :—

"Last medical board held on 16-6-93. Reemployment as mechanical fitter (review case). He has not consulted Eye Surgeon for defective vision as advised on 16-3-93. Advised to consult Eye Surgeon and reappear before medical board after three weeks for re-assessment of his fitness as mechanical fitter."

11. It has been stated the concerned workman again appeared before the medical board on 4-8-93 for assessment of his fitness on the job of mechanical fitter. The Medical Board found the concerned workman unfit for his original job as mechanical fitter on 4-8-93. As the concerned workman was not medically fit to continue working on his original job of mechanical fitter, the question of re-employing him or reinstating him on his original job with continuity of service did not and could not arise.

12. It has been further stated by the management that as they set aside the order of dismissal on the basis of discussion held between the recognised union and the

management no dispute existed over the order of dismissal passed against him.

13. It has been stated by the management that as the concerned workman was incapable of performing his duties on account of his medical unfitness, he could not be provided with his job and he remained idle from the date of his dismissal till the date of the superannuation. Nor he cannot claim any wages or any benefit for the period of his idleness. Moreover, the concerned workman absented from his duties from 26-9-92 till 14-12-92 and subsequently also till he obtained the bail from the Hon'ble High Court, so he cannot claim any wages for the aforesaid idle period. Accordingly it has been prayed on behalf on the management to pass an Award rejecting the claim of the concerned workman.

14. Both the sides have filed their respective rejoinders admitting and denying the contents of some of the paras of each other's Written Statement.

15. Before taking up the case for hearing on merit fairness and propriety of the domestic enquiry was heard as a preliminary issue and on this point management produced Shri S. K. Dutta who has been examined as MW-1. He has proved documents marked as exhibits M-1 to M-10. They also produced another witness A. K. Saran who has been examined as MW-2. No witness has been examined on behalf of the workman. However, one item of document has been marked as Ext. W-1 on their behalf.

16. This Tribunal after hearing both sides held vide its order dated 18-6-2009 that the domestic enquiry conducted against the concerned workman was fair, proper and in accordance with the principles of natural justice. The concerned workman died on 11-12-2001 and a substitution petition has been moved which has been allowed.

17. Main argument advanced on behalf of the concerned workman is that the enquiry was held exparte. As per evidence and W.S. of the concerned workman it shows that he was involved in a murder case and he has stated in W.S. he was hiding from the police and changing his address of his residence so in that circumstances it was not possible for the management to serve him enquiry notice personally. Management in such circumstances published the enquiry notice in the newspaper which is sufficient to serve notice. In this circumstances he was absent without any information to the management from duty. Moreover, he has already retired and there is no ground to pass order of reinstatement because his date of birth is 1-7-1935 and he has crossed the age of superannuation on 30-6-95. It has been argued on behalf of the management that he has been dismissed from service on 14-12-92 but above dispute has been raised after 8 years in the year 2000. Moreover, he has crossed the age of superannuation on 30-6-95. Management side has

referred to a decision reported in 2008 SCC (1) 383 page 164 in which Hon'ble Supreme Court laid down the following :—

“Misconduct-Absenteeism-Nature of, and appropriate punishment therefore habitual absenteeism held, amounts to gross violation of discipline-Where the workman, who had been in the past found guilty of unauthorised absence for a long period (105 days in this case), his consequential dismissal from service ought not to have been treated to be harsh and interfered with by Labour Court/High Court-Case law on scope of exercise of power under S. 11-A industrial disputes Act, 1947, discussed Industrial Disputes Act, 1947 Section 11-A and S. 10(4A) as in force in Karnataka.”

In view of the facts, evidence and circumstances and case law discussed above I find no merit in the claim of the concerned workman. Accordingly the concerned workman is not entitled to get any relief. In the result, the following Award is rendered :—

“The action of the management of Sijua Colliery of M/s. Tisco in dismissing the services of Sri Kam Awtar Beldar w.e.f. 14-12-92 is legal, justified and fair. Consequently, the concerned workman is not entitled to get any relief.”

H. M. SINGH, Presiding Officer

नई दिल्ली, 17 जून, 2010

का. आ. 1775.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पैर्स बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 1, धनबाद के पंचाट (सं. संख्या 237/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-6-2010 को प्राप्त हुआ था।

[सं. एल-20012/391/2001-आई आर सी-1]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th June, 2010

S.O. 1775.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 237/2001) of the Central Government Industrial Tribunal-cum-Labour Court No.-1, Dhanbad as shown in the annexure, in the industrial dispute between the employers in relation to the management of M/s. B.C.C.L. and their workmen, which was received by the Central Government on 17-6-2010.

[No. L-20012/391/2001-IR(C-1)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD****Present :** Shri H. M. SINGH, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 237 OF 2001**Parties :** Employer in relation to the management of Joyrampur Area of M/s. BCCL and their workman.**APPEARANCES:**

On behalf of the workman : Shri B. N. Singh, Authorised Representative.

On behalf of the employers : Mr. D. K. Verma, Advocate.

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 2nd June, 2010

AWARD

The Govt. of India Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/391/2001 (C-I), dated, 30th October, 2001.

SCHEDULE

"Whether the action of the management of Joyrampur Colliery of BCCL in dismissing Sh. Bajrangi Bhuiya is justified? If not, to what relief is the workman is entitled?"

2. The case of the concerned workman is disclosed in his W.S. in brief is that he was a permanent workman of Joyrampur Colliery. Suddenly he fell ill and on account of his illness he started absenting from duty from 15-2-99 and remained absent till 16-7-99. However, the concerned workman informed the management about the cause of his absence from duty. He after recovery from illness when turned up for duty with medical fitness certificate dated 16-7-99 he was not allowed to resume his duty. The management assured him that he will be allowed to resume his duty. It has been alleged by the concerned workman that after a lapse of several months he was informed by the management that he was issued with a chargesheet but no reply to the same was received from him. As such he would be required to attend the enquiry to be conducted by the management. But notice of enquiry was not received by the concerned workman and the management vide letter No. BCCL/A/Joy/99/150 dated 25-1-2000/4-2-2000 dismissed the concerned workman from service.

3. It has been alleged by the concerned workman that as per S.O. of the Company chargesheet was to be

issued timely and the concerned workman was issued chargesheet dated 9-6-99 after his remaining absence for several months from 15-2-99. In the W.S. the concerned workman has stated that the chargesheet was never received by him and that the management inflicted the punishment of dismissal which too harsh. It is the allegation of the concerned workman that he was dismissed from service on the basis of manufactured enquiry proceedings of the management and they did not enable him to submit his representation before inflicting such punishment. It has been submitted by the concerned workman that as there was sufficient reason of his illness the punishment of dismissal was too harsh. In this context the concerned workman has stated several rulings of the Hon'ble Supreme Court. It is the contention of the concerned workman that as he was dismissed by the management by not following the procedures laid down in the Certified Standing order the dismissal order is liable to be set aside. Accordingly it has been prayed on behalf of the concerned workman to pass an Award in favour of the concerned workman holding the dismissal order as not justified and further to direct the management for reinstatement with full back wages.

4. In the W.S. of the management it has been stated by them that the reference is not maintainable. As per management the concerned workman is a habitual absentee and they have stated the attendance of the concerned workman which is as follows :—

Year	Days
1996	Nil
1997	211
1998	97
1999	13

It has been further stated by the management that the concerned workman started absenting with effect from 15-2-99 without any sanctioned leave and permission. For his absentism management issued a chargesheet dated 9-6-99. But the concerned workman did not reply to the chargesheet dated 9-6-99. However, the management started a departmental enquiry appointing Sri A.P. Singh, Personnel Manager to conduct the domestic enquiry against the concerned workman according to the principles of natural justice. After completion of the enquiry proceeding the Enquiry officer submitted a report holding that the charges levelled against the concerned workman has been established. Thereafter the management issued a second show cause notice and gave opportunity to the concerned workman to submit his representation. Management also supplied the copy of the enquiry report. The disciplinary authority considering the enquiry report dismissed the concerned workman following the principles of natural justice. It has been stated by the management

that the dismissal of the concerned workman is legal and justified. It has been prayed by the management to decide the domestic enquiry as a preliminary issue and in case if it is held that the domestic enquiry was not fairly and properly held, management may be allowed to adduce evidence afresh to prove the charges. In the above facts and circumstances it has been prayed on behalf of the management to pass an award rejecting the claim of the concerned workman.

5. The enquiry was found to be fair and proper vide Order No. 18 dated 20-4-2005 and on the point of fairness of enquiry management produced Ram Ekbal Singh who has been examined as MW-1. He has proved documents marked as Ext. M-1 to M-10. Workmanside also produced Bajrangi Bhuiya who has been examined as WW-1 on preliminary point.

6. Main argument advanced on behalf of the workman is that punishment imposed upon the concerned workman is very much harsh. In this respect the management representative argued that he is a habitual absentee. He was absent from duty from 1996. He has worked 211 days in 1997, days in 1998 and 13 days in 1999. The enquiry was held fairly and properly, and he does not want to work. WW-1 stated in cross-examination at page-2 "When I had fallen ill I could not send any information to the management about the same, but no sooner I recovered I appeared before the management with my medical papers. It is true that there is a hospital in the colliery concerned. I did not receive any treatment from there. I was getting treatment at my native place, but as regards that also I could not inform the management." When there is a hospital of the management why he has not taken any treatment from that hospital. Moreover, he has stated that he has not given any information to the management about his treatment at his native place. Workman representative argued that MW-1 stated in cross-examination that second show cause notice was given to the concerned workman which returned unserved. So it should not be presumed that he has got second show cause notice. But such type of workman who absents from duty on several occasions without information to the management shows that he is not interested to work under the management. Another argument advanced on behalf of the concerned workman is that MW-1 in cross-examination at page-2 has stated that the enquiry notice which was sent to the concerned workman by registered post returned unserved. The enquiry notice had also been sent to the concerned workman through Peon Book. But Peon Book has not been filed in this case. When enquiry was found proper no illegality can be presumed in the enquiry proceeding. Moreover, the concerned workman is a habitual absentee. Under such circumstances, I find that the management was justified in dismissing the concerned workman from service. Accordingly following Award is rendered :—

"The action of the management of Joyrampur Colliery of BCCL in dismissing Shri Bajrangi Bhuiya is justified. Consequently, the concerned workman is not entitled to get any relief."

H. M. SINGH, Presiding Officer

नई दिल्ली, 21 जून, 2010

का. आ. 1776.—औद्योगिक विवाद अधिनियम, 1947, (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एसोसियेटेड स्टोन इन्डस्ट्रीज लि., के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 32/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-6-2010 को प्राप्त हुआ था।

[सं. एल-29012/59/99-आई आर(एम)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 21st June, 2010

S.O. 1776.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/99) of the Central Government Industrial Tribunal-cum-Labour Court Kota now as shown in the annexure, in the industrial dispute between the employers in relation to the management of Associated Stone Industries Ltd., and their workman, which was received by the Central Government on 21-6-2010.

[No. L-29012/59/99-IR (M)]

KAMAL BAKHRU, Desk Officer

अनुबन्ध

न्यायाधीश, औद्योगिक न्यायाधिकरण/केन्द्रीय/कोटा/राज.
पीठासीन अधिकारी-अनुराधा शर्मा, आर.एच.जे.एस. निर्देश प्रकरण
क्रमांक : ओ न्या.-32/99

दिनांक स्थापित : 3-12-99

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश

एल-29012/59/99/आईआर(एम) दि. 4-10-99

निर्देश/विवाद अन्तर्गत धारा 10(1)(घ)

औद्योगिक विवाद अधिनियम, 1947

मध्य

श्रीमती शांतीबाई पुत्री श्री नन्दराम

5 जी-12, महावीर नगर-III, कोटा

....प्रार्थिनी श्रमिक

एवं

प्रबन्धक, एसोसियेटेड स्टोन एण्ड रामगंजमण्डी।

....अप्रार्थी नियोजक

उपस्थित

प्रार्थिनी श्रमिक की ओर से प्रतिनिधि : श्री आर. एस. शर्मा

अप्रार्थी नियोजक की ओर से प्रतिनिधि : श्री वी. के. जैन

अधिनिर्णय दिनांक : 28-5-10

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के उक्त प्रासांगिक आदेश दिनांकित 4-10-99 के जरिये निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1957 की धारा 10(1) (घ) के अन्तर्गत या न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित दिया गया है :

“Whether Smt. Shanti Bai who was working as Mining Mato in the Mines of M/s. Associated Stone Industries (Kota) Ltd. is a workman as defined under Section 2 (s) of the I.D. Act ? If yes, whether her removal from service by the management w.e.f. 13-8-1998 is justified ? If not to what relief the workman is entitled ?”

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना विधिवत रूप में जारी की गयी जिस पर दोनों पक्षों की ओर से अपने-अपने अभ्यावेदन प्रस्तुत किये गये।

3. विभागीय जांच की उचितता के बिन्दु के बहस के प्रक्रम पर पक्षकारों की प्रार्थना पर पत्रावली लोक न्यायालय नियत की गयी। आज स्वयं प्रार्थिनी मय अधिकृत प्रतिनिधि एवं अप्रार्थी प्रबन्ध मय अधिकृत प्रतिनिधि ने उपस्थित होकर संयुक्त रूप से एक राजीनामा प्रस्तुत कर निवेदन किया कि लंबित निदेश/विवाद प्रकरण में दोनों पक्षों के मध्य लोक न्यायालय की भावना से प्रेरित हो आपसी राजीनामा सम्पन्न हो गया है जिसके तहत अप्रार्थी नियोजक, प्रार्थिनी को आज से एक सप्ताह के अन्दर बतौर फुल एण्ड फाइनल सेटिलमेंट 45,000 रु. की राशि अदा करेगा। उक्त राजीनामे उपरान्त पक्षकारान अब लंबित प्रकरण में कोई कार्यवाही नहीं चाहते हैं, अतः राजीनामे के आधार पर प्रकरण का अन्तिम रूप से निस्तारण कर दिया जाये।

चूँकि दोनों पक्षों के मध्य लोक न्यायालय की भावना से प्रेरित हो उक्त प्रकार से राजीनामा सम्पन्न हो गया है और अब पक्षकारान प्रकरण में आगे कोई कार्यवाही नहीं चाहते हैं तथा राजीनामे के आधार पर ही अन्तिम निस्तारण चाहते हैं अतः प्रस्तुतशुदा राजीनामे के आधार पर सम्प्रेषित निदेश/विवाद को इसी प्रकार अन्तिम रूप से अधिनिर्णत कर उत्तरित किया जाता है।

अनुराधा शर्मा, न्यायाधीश

नई दिल्ली, 21 जून, 2010

का. आ. 1777.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय,

कोल्हापुर के पंचाट (संदर्भ संख्या 152/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-6-2010 को प्राप्त हुआ था।

[सं. एल-17011/04/2007-आई आर(एम)]
कमल बाखरू, डेस्क अधिकारी

New Delhi, the 21st June, 2010

S.O. 1777.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 152/2007) of the Labour Court Kolhapur, now as shown in the annexure, in the industrial dispute between the employers in relation to the management of Life Insurance Corp. of India and their workmen, which was received by the Central Government on 21-6-2010.

[No. L-17011/04/2007-IR (M)]

KAMAL BAKHRU, Desk Officer
ANNEXURE

IN THE SECOND LABOUR COURT AT KOLHAPUR
CORAM : SHRI G. B. PATIL, PRESIDING
OFFICER, SECOND LABOUR COURT,
KOLHAPUR

Reference (IDA) No. 152/2007.

BETWEEN

The Sr. Divisional Manager,
Life Insurance Corporation of India,
511/K 1A/E Ward, Station Road,
Kolhapur.

....First Party.

AND

The General Secretary,
Kolhapur Division Insurance
Employees Union,
C/o. LIC of India, 511/K 1A/E Ward,
Station Road,
Kolhapur.

....Second Party.

APPEARANCES:

None for First Party.

Shri V. M. Kuigade, Advocate for Second Party.

AWARD

(Date : 29-5-2010)

1. The Ministry of Labour, Government of India, New Delhi by its order No. L-17011/04/2007-IR (M) dated 1-10-2007 has referred this reference for adjudication of the Industrial Dispute between the first party employer and second party workman in terms whether the action of the management of Life Insurance Corporation of India, Kolhapur in issuing reversion order and also reduction

in stages of second party workman is legal and correct ?

2. The facts in brief in statement of claim are as under.

The second party is a registered Trade Union under the Trade Unions Act. Shri P. R. Jaitapkar is the member of Union. He was in service with first party as a Peon since 1983. He worked honestly and his service record is clean and unblemished. The first party time to time promoted him. On 30-7-2005 he voluntarily resigned from the service. The first party served three charge sheets on him on 9-4-1996, 14-4-1996 and 2-5-1996. He was working as a Branch Secretary of Kanakawali Branch of the Union and was fighting for the complaints of the employees of the first party. In March 1996, he arranged demonstrations against the officers of the first party. Therefore, first party filed the complaint application against him and against Shri V. S. Bheram in the Kanakawali Police Station. Being aggrieved by the activities of him of Union three charge sheets were served on him.

3. The contents of the charge sheets are false. He never remained absent unauthorisedly. The order given by the first party on 9-8-1996 on the basis of the report of the enquiry officer is illegal. The enquiry was conducted ex-parte and it is in violation of principle of natural justice. In the enquiry, the opportunity was not given to him to defend. In the enquiry, the dates 28-6-1996, 28-3-1997 and 24-4-1997 were fixed. On 24-4-1997 he could not reach the place of enquiry due to non availability of the S.T. Bus. So, enquiry officer completed the enquiry ex-parte. The evidence on his part was not recorded. The enquiry was concluded on the oral submissions of Presenting Officer of the first party. Therefore, enquiry is vitiated. The enquiry officer submitted three enquiry reports having no date and drawing the finding without any evidence. The findings as perverse. The first party on 29-12-1997 terminated his service. The reference 2/89 of 2000 was sent to Industrial Tribunal No. 2, Mumbai and in the said reference, award was passed on 29-5-2003. In the said award, the enquiry was set aside and reinstatement was given to the second party. The first party preferred W.P. No. 3127/2003 in the Hon. High Court and by the order dated 12-1-2004, writ petition was dismissed. Then, first party preferred appeal No. 412/2004 and appeal was also dismissed. Without admitting the charges in the three charge sheets, it is alternative contention of second party that the first party by its order dated 14-7-1997 reduced one increment, by the order dated 15-7-1997 reduced two increments and by the order dated 10-7-1997 reduced three increments. The said punishment is illegal. The first party by the order dated 9-8-1996 reverted the second party. The said order is ex-parte and passed without giving any opportunity to the second party. The said order is illegal. Therefore, all the aforesaid orders be declared as illegal and be set aside and

all the monetary benefits be given to him. The first party remained absent and reference proceeded without its written statement.

4. The following points arise for my consideration. My findings and reasons thereon are as under :

Points	Findings
1. Does second party proves that he is entitled for the reliefs as prayed for ?	Yes
2. What award ?	As per final order.

5. Evidence :— Shri P. R. Jaitapkar filed his evidence affidavit vide Exh. U-15. He produced authority letter below list Exh. U-8. The copies of charge sheet, reply to the charge sheet leave record, enquiry report, reporting letter in enquiry, enquiry reports, orders issued by the first party, reversion letter, order issue in respect of charge sheet dated 17-3-1997, order in Reference No. 2/89 of 2000, judgment in writ petition no, 3127/2003, judgment in appeal No 412/2004, order of reinstatement given by Life Insurance Corporation Branch Manager and Divisional Manager, Kolhapur, Censure order, appeal against the order, order given by the appellate Authority, in all 23 documents below list Exh. U-14.

REASONS

6. Point No. 1 :—I have gone through the aforesaid oral and documentary evidence. Heard arguments of learned advocate for second party.

7. The claim of the second party in brief is that he was working with the first party since 1983 as a Peon. The first party given promotions to him. He voluntarily resigned on 30-7-2005. The first party served three charge sheets on him dated 9-4-1996, 11-4-1996 and 2-5-1996 and conducted domestic enquiry. The charge of absenteeism was levelled against him. He denied all the charges by submitting his explanation. He never remained absent on duty unauthorisedly. The enquiry was conducted against him ex-parte without giving any opportunity to defend and to lead evidence. The enquiry was conducted in violation of principle of natural justice. The enquiry officer only considered the submission of presenting officer and given his finding which are undated. The finding recorded by enquiry, officer are illegal and perverse. The first party on the basis of reports of the enquiry officer issued the orders of reducing his increments. By the order dated 9-8-1996, he was reverted to the lower post. All these orders are illegal and deserves to be set aside. Accordingly, he prayed for the reliefs of setting aside of orders passed by the second party and for grant of all the monetary benefits from the first party.

8. From the oral evidence of second party Shri Prakash Jaitapkar and from the documents produced on record below Exh. U-14, it appears that the orders issued by the first party of reducing of increment and reverting

him to the lower post are not proper and same are issued without giving proper opportunity to the second party. The reports of the enquiry officer are undated. From reading the said report it appears that no evidence was produced before him by the first party management to prove the charge of absenteeism against the second party. In the reversion order dated 9-8-1996, no specific reason is given for reversion. This order also not shows that before reverting the second party the opportunity was given to him to submit his explanation. All the aforesaid documents supports the claim of the second party. The first party remained absent and thereby oral and documentary evidence led by second party remained unchallenged. So, there is no any reason to discard the said evidence. Accordingly, relying on the same, I hold that the second party succeeded to prove his claim. Therefore, reference deserves to be allowed. Hence, I answer this point in affirmative and pass the following order;

ORDER

1. The reference is allowed.
2. The award be drawn accordingly.
3. Inform to the Central Government.

Place : Kolhapur

Date : 29-5-2010

G.B. PATIL, Presiding Officer

नई दिल्ली, 21 जून, 2010

का. आ. 1778.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार युनाइटेड इंडिया इन्सुरेन्स लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 74/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-6-2010 को प्राप्त हुआ था।

[सं. एल-17011/2/2007-आई आर(एम)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 21st June, 2010

S.O. 1778.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 74/2007) of the Central Government Industrial Tribunal-cum-Labour Court Chennai now as shown in the annexure, in the industrial dispute between the employers in relation to the management of United India Insurance Comp. Ltd. and their workmen, which was received by the Central Government on 21-6-2010.

[No. L-17011/2/2007-IR(M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Friday, the 11th June, 2010

Present: A.N. JANARDANAN, Presiding Officer
INDUSTRIAL DISPUTE No. 74/2007

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of United India Insurance Co. Ltd. and their Workmen)

BETWEEN

The Regional Secretary

All India General Insurance
Employees Congress

Old No.8, New No.4,
Esplanade, U.I.L. Building
Chennai-600108

... 1st Party/Petitioner Union

AND

The Regional Manager
United India Insurance Co. Ltd
Regional Office
Dr. Nanjappa Road
Coimbatore-641 018

.... 2nd Party/Respondent

APPEARANCE:

For the 1st Party/Petitioner : M/s Row & Reddy,
Advocate

For the 2nd Party/Management : Smt. S. Vijayadharani,
P.Neelakanthan, Adv.

AWARD

The Central Government, Ministry of Labour vide its Order No. L-17011/2/2007-IR(M) dated 1-11-2007 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in the order is :

“Whether the demand of All India General Insurance Congress for regularization of Sri D. Packiriswamy, by the management of United India Insurance Co. Ltd. is just and fair? If not, to what relief is the concerned workman entitled?”

2. This reference is numbered on file as ID 74/2007. Pursuant to notice both the parties entered appearance through their respective counsel and filed their Claim, Counter and Reply Statement as the case may be.

3. The Claim Statement's contention briefly read as follows:

On 9-9-1986 the workman D. Packiriswamy was appointed as a Caretaker under an agreement with the Respondent Company on a pay, DA, CCA and Washing Allowance. Basic Pay was revised to Rs. 875 as on 1-1-1989 as per the scheme for employees. DA and CCA were added to the pay. Remuneration was increased on 1st January of every year on the basis of increments of Sub-Staffs which were not actually given. By letter dated 30-1-1997 no. B-35/24/97-CL-ES-II it was directed to regularize employees similar in cadre to that of the workman. D. Packiriswamy has been continuously working for more than 21 years since 1986. He was not regularized deliberately to deprive him of monetary benefits. He is doing regular work and he is not a contract employee. The contract is sham and nominal. The Contractor is a name lender who does not supervise the work. He had to be present every hour. He was not made to subscribe to Provident Fund. As per award in ID 20/1997 a similarly placed workman by name C. Gnanam was regularized by New India Assurance Company. In the subordinate cadres there has been regularization of employees. The Respondent does not follow reservation policy. D. Packiriswamy is working in the Guest House of Respondent Company. He was paid same wages as of regular sub-Staff from time to time with annual increments. Except for a formal regularization his employment is akin to regular Sub-Staff. His work is perennial. The workman for a job should be under the direct control of the Respondent. He is qualified to be a sub-Staff. He has put more than 240 days of service in a Calendar Year. The denial of regularization is arbitrary and illegal. Hence the prayer for regularization w.e.f. 1-1-1986 with backwages, continuity of service etc.

4. The Counter Statement contentions bereft of unnecessary details are as follows:

The Petitioner Union with only 0.4% of the total employees for present of the representative strength is not entitled to take up the ID. It is also not competent to raise the ID. Packiriswamy is not a workman. He is only managing the transit camp at Avarampalayam as an independent agency on a contract with the Respondent. He engages and controls other persons. He has no membership in the Petitioner Union or master-servant relationship with the Respondent. Respondent cannot be directed to do anything against statutory rules of the organization. The service conditions of Respondent employees are governed by the General Insurance Business Nationalization Act, 1972 with overriding effect on other law. Pay scales, categories of posts are governed by the General Insurance (Rationalization and Revision of Pay Scales and Other Conditions of Service of Supervisory, Clerical and Subordinate Staff) Scheme, 1974. It is also governed by well-defined recruitment rules/regulations with a well-defined recruitment policy. Admittedly Packiriswamy had not entered into the service against the sanctioned post or on the basis of recruitment guidelines. There is no cadre of

Caretaker in the Company. In view of the General Insurance Business requirements Respondent takes on rent or otherwise Guest Houses at important cities for providing stay and other facilities to the visiting clients which are being taken care through Contractors being not the main business of the Respondent. The Guest House at Coimbatore is independently managed by Packiriswamy engaged on contract basis extended from time to time. The terms of contract inter alia include the duty of Contractor to attend the work of House Keeping and maintenance of Guest House in good order, taking care of all amenities, equipment and other movable properties entrusted to him, to ensure attending to change of bed lines, towels, soaps, etc. depending on the need of Guests, providing tea/coffee, breakfast, lunch/dinner, etc. on demand by the Guests at fixed rates displayed for which charges are payable directly by the Guests to the Caretaker against receipt, keeping under his control assistants at his own cost and to ensure availability of services to the Guests at all reasonable times, duty of displaying comprehensive menu detailing the items served to the Guests with the corresponding price list at the rates fixed by the Company, duty of not behaving with the Guests in any objectionable manner, duty not to smoke or consume alcoholic drinks with the premises with entitlement to the Caretaker to be paid monthly compensation at the rates fixed from time to time as per duties performed under the agreement. The contract is terminable by one month's notice from either side and also can be renewed on mutual basis from time to time. He has been providing contractor service as above since 1986, renewed every now and then. He has been engaging an assistant and supervising him. The workman's remuneration is being enhanced under the agreement. The emoluments of the regular subordinate staff are usually taken as guideline for fixing the remuneration and paid in consolidated remuneration. He is also reimbursed the charges for engaging the Helper. In the last three years though the same status of engagement continued he has not signed the agreement. He is not employed on a temporary basis. His name is not borne in the muster rolls. The Respondent is also obliged to provide due reservation for reserved categories during recruitment. Statutory requirement of notification under the Employment Exchange (Compulsory Notification of Vacancies) Act is to be resorted to. Packiriswamy is not discharging any perennial, regular or official functions of the Company. Packiriswamy was not issued any appointment order. There is no question of payment of increment or any question of regularization. It is denied that the Respondent is deliberately not regularizing him in order to deprive him of monetary benefits. The analogy of the alleged regularization of one Mr. G. Gnanam in New India Assurance Company is not applicable. The Respondent is acting in accordance with law, rules and regulations. The post of Caretaker is not a subordinate cadre of the Respondent. He is not an employee of the Respondent. The petitioner is not clear as to the

nature of his very engagement i.e. as workman or contractor. It is denied that the contract is sham. The petitioner putting in 240 days of service is not applicable and relevant to the issue. There is no unfair labour practice at the instance of the Respondent. The claim for regularization is to be dismissed.

5. In the reply statement the further contentions in a nutshell are as follows:

The incremental increase on par with increments applicable to Sub-Staffs were not actually given to him. Packiriswamy is a workman under Section-2(s) of the ID Act. He was employed and governed by the Respondent. The Guest House is a part and parcel of the Respondent Company and Officers of Respondent are staying there. The post of Caretaker comes under the Sub-Staff category. It is just necessary that workman under direct control and not a Contractor who has to be employed in the Guest House. The workman is to be regularized w.e.f. 0-11-1986.

6. The evidence consists of the oral evidence of WW1 and WW2 and EX.W1 to EX.W21 on the side of the petitioner. On the Respondent's side MW1 was examined and EX.M1 to EX.M9 marked.

7. Points for consideration are:

- (i) Whether the demand for regularization of Packiriswamy by the Management is just and fair?
- (ii) To what relief he is entitled?

Points (i) & (ii)

8. The arguments of the learned counsel for the petitioner are that the petitioner has been engaged as a workman on a scale of pay of a Sub-Staff. Under EX.W12 agreement he was engaged as a Caretaker in the Transit Camp to take care of everything. He was being paid salary together with D.A. CCA, Washing Allowance etc. like any other employee. The petitioner's engagement is of contract of service and not contract for service. He is given periodical increment in the scale of pay which is an attribute of pay scale in contra distinction with an independent contractor who is paid in terms of the contract. His emoluments are being revised from time to time. He is not engaged through an intermediary between him and the Respondent. He is doing job of a regular nature. He is being paid arrears of emoluments normally paid to employees. All these go to show that the plea of the Respondent that the workman is only an independent contractor is an inconsistent stand of the Management.

9. The contra arguments on behalf of the Respondent are that there is no employer-employee relationship inter se and that Pakkirisamy is only an independent contractor.

The enumerated posts under the service rules of Respondent Corporation do not take in Caretaker as an employee in the scheme. As per his own testimony he was appointed as Caretaker under EX.W12 agreement. He was acting only as an independent agency to hold charge of the Transit Camp and keep the same in his control and at his own cost. So he is only an independent contractor and not a workman. The Vinculum Juris created under the agreement is only for contract for service and not contract of service. The fact that the salary of the Sub-Staff was taken as a basis for fixing his remuneration is not to be understood to mean that he was given pay equal to that of a Sub-Staff. On that reckoning he cannot be treated as an employee. EX.M3 circular issued by the Respondent only mentioned regarding revision of the remuneration of the Caretakers which is not borne in the scheme of regular employee. The Caretaker is not a cadre under the scheme of service for employment. He is not an employee and there is no employer-employee relationship. There does not arise any question of regularization. His further contention is that the Petitioner Union is not a recognized union which fact has been sworn to in the Proof Affidavit.

10. The learned counsel for the petitioner invited this Court's attention to a decision of the Supreme Court in *JK COTTON SPINNING AND WEAVING MILLS CO. LTD AND LABOUR APPELLATE TRIBUNAL OF INDIA AND OTHERS (1963-2-LLJ-436)* wherein it held as follows "in this connexion, it is hardly necessary to emphasize that in the modern world industrial operations have become complex and complicated and for the efficient and successful functioning of any industry several incidental operations are called in aid and it is the totality of all these operations that ultimately constitutes the industry as a whole. Wherever it is shown that the industry has employed an employee to assist one or the other operation incidental to the main industrial operation, it would be unreasonable to deny such an employee the status of workman on the ground that his work is not directly concerned with the main work or operation of the industry. Reverting to the illustration of the buses owned by the factory for the purposes or transporting its workmen, if the bus drivers can legitimately be held to assist an operation incidental to the main work of the industry, we do not see why a mali should not claim that he is also engaged in an operation which is incidental to the main industry".

11. In another decision of the Supreme Court in *HUSSAINBHAI CALICUT Vs. THE ALATH FACTORY THEZHILALI UNION, KOZHIKODE AND OTHERS (1978)-4-SCC-257* his lordship Justice V.R. Krishna Iyer (as he then was) held as follows "5. the true test may, with brevity, be indicated once again. Where a worker or group of workers labours to produce goods or services and these goods or service are for the business of another, that other is, in fact, the employer. He has economic control over the workers' subsistence, skill, and continued employment. If

he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex-contractu is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in different perfect paper arrangement, that the real employer is the Management, not the immediate contractor. Myriad devices, half-hidden in fold after fold of legal form depending on the degree of concealment needed; the type of industry, the local conditions and the like may be resorted to when labour legislation casts welfare obligations on the real employer, based on Articles 38, 39, 42, 43 and 43-A of the Constitution. The court must be astute to avoid the mischief and achieve the purpose of the law and not be misled by the maya of legal appearances.

12. If the livelihood of the workmen substantially depends on labour rendered to produce goods and services for the benefit and satisfaction of an enterprise, the absence of direct relationship or the presence of dubious intermediaries or the make-believe trappings of detachment from the Management cannot snap the real life-bond. The story may vary but the inference defies ingenuity. The liability cannot be shaken off”.

13. The above decisions discernibly provide guidelines to distinguish an employee from an independent contractor. If it is proved that in spite of the description as to the nomenclature of a person engaged as an independent contractor yet the status of an employee is gatherable in his relationship with the Management with reference to the activity carried on by him as being incidental to the main industrial operation with direct or indirect connection with the main work or operation of the industry obviously he cannot be an independent agency. While this may be guiding factors for the determination as to the status of the person as an employee or not other relevant factors have also to be considered while a final decision is to be taken where adjudication rests on a matter relating to regularization.

14. The learned counsel for the Respondent invited this Court's attention to the decision of the Apex Court in *INDIAN OVERSEAS BANK VS. WORKMEN* (2006)-3-SCC-729 where a distinction was drawn between regular employees and contract labour on the basis of various tests and it was found that the jewel appraisers are not employees of the bank who have no qualification or age prescription, who are directly engaged by the local manager with no fixed working hours, who has no guaranteed payment but only commission, on whom no disciplinary control, no control/supervision over their work, no retirement age, whose payments not made by the employer and for whom no bar to carry on any other occupation which conditions are to be affirmatively satisfied by the regular employees.

15. Another decision relied on by the Respondent is that of *UP POWER CORPORATION LTD. AND ANOTHER Vs. BIJLI MAZDOOR SANGH AND OTHERS* (2007)-5-SCC-755 where the Apex Court had held as follows “the plea of learned counsel for the Respondent that at the time the High Court decided the matter, decision in *Umadevi*(3) case was not rendered is really of no consequence. There cannot be a case for regularization without there being employee-employer relationship. As noted above the concept of regularization is clearly linked with Article-14 of the Constitution. However, if in a case the fact situation is covered by what is stated in para 45 of *Umadevi* (3) case the industrial adjudicator can modify the relief, but that does not dilute the observations made by this Court in *Umadevi* (3) case about the regularization.”

16. In *CHANDRA SEKHAR AZAD KRISHI EVAM PRODYOGIKI VISHWAVIDYALAYA VS. UNITED TRADES CONGRESS AND ANOTHER* (2008)-2-SCC-552 wherein it held that “what was necessary to be considered was the nature of work undertaken by the University. It undertakes projects. For the said purpose, it may have to employ a large number of persons. Their services had to be temporary in nature. Even for that the provisions of Articles 14 and 16 are required to be complied with. In the event, the constitutional and statutory requirements are not complied with, the contract of employment would be rendered illegal”.

17. Here is the case of a Caretaker who was admittedly engaged by the Respondent/Management as Caretaker and not as a workman to manage the Transit Camp as an independent agency under an agreement. The engagement is not against a sanctioned post or made on the basis of any recruitment guidelines. His engagement is to a non-cadre post of Caretaker. When necessitated by business in a Guest House provided by the Management for stay and other facilities to their men in business or Officers intended to be run through Contractor and not as its main business if the Contractor was engaged at the Guest House at Coimbatore for doing everything there which was to be discharged under his own control and at his own cost defining the various duties to be performed by him on a monthly compensation to be paid at the rate fixed from time to time as stipulated in the agreement terminable by one month's notice by either side and is renewable, it could be apt to be contract. According to the Management the enhancement of his emoluments akin to that of a Sub-Staff from time to time adopted as a basis to fix it in a clear and structured manner does not render him in a parity treatment with the Sub-Staff. The specific case of the Management is that he is not employed on a temporary basis. His name is not in the muster rolls. There is no employer-employee relationship interse. He was not engaged against the avocation with the issuance of any appointment order. Though he has a case of being granted increment his case is a paradoxically that it has never been given. The allegation

of unfair labour practice on him so as to deprive him of monetary benefits is not substantiated. It is also not substantiated that the contract is sham. The further case of the Management is that during regularization the Management has to give due consideration for the recruitment rules and the reservation principles have to be followed up. Mere engagement in a temporary capacity for or beyond 240 days in 12 calendar months cannot be said to confer any right for regularization.

18. The decisions relied on by the petitioner's counsel cannot be found to be of any support to advance the case of the petitioner. The operation of the Guest House even if is one incidental to the main business as to whether he is entitled to be treated as an employee of the Management is a question of fact to be set at test by cogent evidence in relation to competing claims. Here again the question is whether the engagement of Packiriswamy as a Contractor is merely sham or nominal. That question is to be looked into from the angle of the nature of work undertaken by the Management with the establishment of the Guest House. It was undertaken to provide accommodation to the client and officials of the Management which is engaged in the General Insurance Business for which requirements Respondent had to take on rent or otherwise Guest House which is not part of the main business itself of the Management. That being the case while the project of Guest House was undertaken to meet the purpose it was not possible to make recruitment to the post of Caretaker in the absence of that category borne in the service of the establishment and therefore what could have been envisaged was to have it run by engaging a Contractor laying down the conditions and rules under which he has to act and the remuneration payable to him in lieu of the services rendered. Thus, the workmen happened to be posted as a Caretaker under an agreement. The present question is in spite of the same the employment of the workman dating back to the year 1986 and which continued for over 21 years and is still continuing must take the character of a due and proper employment so as to blossom into a vested right in favour of the workman to claim regularization dehors the Recruitment Rules. It is clear that the initial appointment was not as an employee. When due regard is given to the fact that the engagement of the Caretaker was made in the context as narrated above whether the same would amount to an unfair labour practice with a view to deprive benefits to the workman by not absorbing him is a crucial aspect. At no stretch of imagination or logic an answer in the affirmative is possible in the background facts of the establishment of the Guest House and engagement of the Caretaker. The engagement of the Caretaker commenced admittedly and evidently under an agreement and the same engagement developed and continued as such for a long time. The engagement as Caretaker is against an out cadre post not borne in the service rules or conditions of service of the Management

as an enumerated post to which recruitment is to be resorted to. The same seems to be the reason why the engagement of the Caretaker was made in the manner stated under an agreement which is intended to be in the nature of an independent agency to manage the Guest House undertaken by the Management as a project to accommodate the visiting clients or the Officers of the Management itself when they have to be provided such facilities in the course of the management of general insurance business with which the Management is concerned. Once the engagement having commenced in the nature of an independent agency created under an agreement its continuance as such for long years has been the special feature with regard to the said post of Caretaker for which the Management cannot be attributed of having practised unfair labour practice against the incumbent of the post. Attributing malice of unfair labour practice on the Management is illogical and unreasonable. The claimant has no case that he has been in receipt of bonus and like benefits being paid to regular employees. Though, having regard to the nature of various responsibilities and duties conferred on the Caretaker under the agreement which he has been performing those were only created under the agreement specifically and they cannot be said to have had caused to create any nexus of employer-employee relationship between him and the Management. Though in terms of the various duties and responsibilities performed by him the performer of the same is apt to be an employee in fact such a fact has not grown him into an employee status. In other words the status of the Caretaker still remained as an independent agency. The contract is not sham or nominal. Therefore, the claim that he has been a workman is to be negated and he is not entitled to regularization under the Management. His remedy as framed and claimed is non-suited and his demand for regularization is held not just and fair. The petitioner is therefore not entitled to any relief.

19. The reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 11th June, 2010).

A. N. JANARDANAN, Presiding Officer

Witnesses Examined :—

For the 1st Party/Petitioner : WW1, Sri T. P. Kannan

WW2, Sri Packiriswamy

For the 2 Party/Respondent : MW1, Sri R. Govindarajan

Documents Marked :

On the Petitioner's side

Ex.No.	Date	Description
Ex.W1	09-03-1988	Respondent Head office letter to Regional Office

Ex.W2	08-07-1991	Respondent letter to the General Manager
Ex.W3	29-01-1972	Notes and Decisions of Respondent
Ex.W4	19-10-1992	Respondent Head Office letter to Regional Manager
Ex.W5	24-12-1997	Office Note of Respondent
Ex.W6	05-01-1998	Voucher
Ex.W7	04-02-1998	Office Note of Respondent
Ex.W8	22-01-1999	Office Note of Respondent
Ex.W9	28-01-2001	Advertisement
Ex.W10	04-01-2002	Office Note of Respondent
Ex.W11	16-09-2003	Order in WP No. 19003 of 2000
Ex.W12	01-01-2004	Agreement
Ex.W13	20-12-2004	New India Assurance Company Letter to Gnanam
Ex.W14	10-11-2004	New India Assurance Company Letter to Gnanam
Ex.W15	23-12-2004	Office Note of Respondent
Ex.W16	29-12-2004	Voucher
Ex.W17	25-01-2005	Voucher
Ex.W18	11-08-2005	D. Packiriswamy letter to the Regional Manager
Ex.W19	19-07-2006	Respondent Regional Office letter to Head Office
Ex.W20	—	Identity Card issued to D. Packiriswamy
Ex.W21	21-12-2005	Government of India Notification

On the Management's side

Ex.No.	Date	Description
Ex.M1	—	Procedure for Recruitment of Clerks and Subordinate Staff
Ex.M2	—	Respondent's Circular
Ex.M3	—	Communication from GIPSA
Ex.M4	06-02-2006	Note to the Chairman and Managing Director
Ex.M5	29-03-2006	Letter from Head Office to Regional Office, Coimbatore

Ex.M6	05-05-2006	Note of Respondent-Check Off Exercise
Ex.M7	27-06-2006	Letter from Head Office to Regional Office, Hyderabad
Ex.M8	23-11-2007	Respondent's Circular
Ex.M9	27-02-2006	Respondent's communication regarding increase in remuneration for caretakers.

नई दिल्ली, 21 जून, 2010

का.आ. 1779.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं बी.सी.सी. एल. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, असनसोल के पंचाट (संदर्भ संख्या 25/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-6-2010 को प्राप्त हुआ था।

[संख्या एल.-22012/323/1999-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st June, 2010

S.O. 1779.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 25/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 18-6-2010.

[No. L-22012/323/1999-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
ASANSOL**

Present : Sri Manoranjan Pattnaik, Presiding Officer.**Reference No. 25 of 2000****Parties :** The Industrial dispute between the management of Bhojudih Coal Washery of M/s. BCCL.

-Vrs-

Their Workman

Representatives:

For the management : Sri P.K. Das, Advocate

For the Union (Workman) : Sri S.K. Pandey, Jt. Secy.
CMC(HMS) G.T. Road,
Asansol.

Industry : Coal State : West Bengal

Dated : 28-5-2010

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) Govt. of India through the Ministry of Labour *vide* its letter No. L-22012/323/99-IR (CM-II) dated 27-2-2000 has been pleased to refer the following dispute for adjudication by the Tribunal.

SCHEDULE

"Whether the action of the management of Bhojudih Coal Washery in superannuating Smt. Chhatreswari Sutradhar from service w.e.f. 31-8-1997 is justified? If not, to what relief the person concerned is entitled?"

1. On receipt of the Order No. L-22012/323/99/IR (CM-II) dated 27-2-2000 of the above mentioned reference from the Govt. of India, Ministry of Labour, New Delhi, for adjudication of the dispute, a reference case of 25 of 2000 was registered on 13-3-2000 and accordingly an order to what effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statement along with the relevant documents and a list of witnesses in support of their case.

2. While the management relied on documents union adduced the oral evidence of the workman.

3. Case of the union in short is that she (Smt. Chhatreswari Sutradhar) is an employee under the Employer, Bhojudih Coal Washery of the Steel Authority of India. Her appointment was on compassionate grounds due to the death of her husband, Sh. S. Sutradhar, while in service under the employer. She was initially appointed as attendant *vide* an appointment letter issued by the management and she joined on 27-8-1979. Subsequently, she was transferred to Bhojudih Colliery being designated as peon where she joined on 18-9-80. Her date of birth was recorded as 10-1-1945 in all service records at the time of entry of the service. In the year 1992 she came to know from some official source about correction of her date of birth in service record as 24-8-1939. However, she discovered her correct date of birth as 6-1-1942 from the school leaving certificate and made a representation to the management for correction of her date of birth as per the S.L.C., but the management did not pay any heed. Though the correction of the date of birth was not beneficial to her, which would cause her early superannuation but she preferred to the same to avail the benefit of voluntary retirement scheme floated by the company for the workers having less than 10 years of service. The management without considering her several representation for correction of date of birth served notice on her for availing the preparatory leave standing at her credit before her superannuation on 1-9-1997 basing on the uncorrected date of birth in service records. The applicant preferred a writ in the Hon'ble Patna High Court [vide CWJC No. 3583 of

1997(R)] for relief but pursuant to the order of the Hon'ble Court to approach the ready available under the Industrial Dispute Act, preferred to raise this I.D. through the union.

4. The case of the management in brief is the age of the workman, namely Smt. Chhatreswari Sutradhar was duly recorded as 40 years on the company's service record on 23-8-1979. The date of birth (age) declared at the time of entry of service i.e. 40 years in 1979 was also duly incorporated in the service records while regularising her service on 27-5-1980 on her successfully completing the probation period. No document showing her educational qualification etc., was produced by her. For the first time on joining Bhojudih colliery she declared her date of birth as 10-1-1945 but failed to produce any documentary proof to substantiate the same. The transfer certificate issued in the year 1993 and submitted by her on 5-3-1980 was found to be doubtful one and was filed with a view to continue in service beyond the due date superannuation. The T.C. has been issued after her appointment and hence was not acceptable to the management. The workman is being aware of the entry of her date of birth in the service record and duly accepted the same. It is settled rule (according to the pleading) that the date of birth of an employee which was declared at the initial stage of appointment is to be treated as correct until and unless unimpeachable, document is produced. Alleging that the claims of the workman is false, baseless and the T.C. as fabricated one, the management urged to hold their action legal and justified entitling no relief to the workman.

5. On going through the pleadings and evidence both oral and documentary and the submission made by both sides, it is found that parties are not at variance on all factual aspects relating to appointment, service period etc., except on the factum of date of birth. It is quite certain that entry of date of birth i.e. the age of the workman in the service papers has been made as per the approximate age (40 years) allegedly disclosed by the workman. This makes it clear that the workman has simply declared her age and not the exact date of birth if at all the version of the management is believed. It is not pleaded nor found in the record that the officials of the employer insisted production of age proof from the workman and that she failed to comply so as to estop her from claiming or producing the same at a later stage as contended by the management. No rule or illustration or direction of the authority or in that respect any case law have been cited by the management that the entry of age or date of birth once made in service register either on voluntary declaration or otherwise is final and can not be corrected subsequently. According to the management it can be corrected on production of unimpeachable document and according to them the T.C. produced by the worker was false and fabricated one. Pending consideration of the genuineness of the T.C., at a later stage in this case, it can be seen that the workman, a destitute lady of backward community commonly longing for a service

in the event of the demise of her husband is not expected to be vigilant about such future service hazards but will definitely be eager to grab the job once at the earliest without loosing the opportunity for a moment will be eager to put her hand to get the job and without thinking about any error that might crept in. Under such circumstances and in view of that credulous, destitute, lady of a non-permissive will readily agree or sign the papers placed before her by the officials. As such it will not be reasonable to bind her down by any such declaration made by her. In this case, however, it is seen that she has come forward with a prayer for correction of the date of birth right from her knowledge about arbitrary correction of the date of birth as 1-9-1939 by the management though admittedly her age or the date of birth as such was declared by her at the time of appointment. This is bound to create suspicion. The medical test can at best determine the age but certainly can not determine the exact date of birth. So the date of birth appearing in the service record as 27-8-1939 is abinitio an unilateral and arbitrary action of the management and is not a declaration of the workman to bind her with the same or to extop her from seeking correction. Further, it is alleged by the workman that she came to know from the official source that the age was even corrected from 10-1-1945 to 27-8-1939 which was disadvantageous to her because she will be required to retire earlier than the due date of superannuation as per management's own record. In fact, that happened as the management put a deaf ear to all her requests to make good of things and to correct the date of birth as per school certificate right from the year 1993 vide Ext. W/1 Ext. W/2 and Ext.w5. It can not be said that she approached for correction of date of birth at the belated or fag-end of service or at all the penultimate period of any benefit accrued to her. On the other hand there was right cause of action for her to discover the correct date of birth from the school records as first of all she came to know about the arbitrary fixing of date of birth on the pretext of Medical examination and secondly as a V.R. Scheme was floated and she was eligible for the same. It is natural on her part to find out the document if existed containing age proof. It is strange to find that the management questioned the genuineness and efficacy of the certificate and discarded as because it was secured in the year 1993. The objections raised by the management are not tenable at all. It has been contended from the side of the union that as per Rule followed in the SAIL School certificate is preferred and acceptable to other age proof. Whatever, it might be, it does not stand to any reason not to accept the Transfer certificate as the age proof on the grounds it has been rejected by management as discussed above.

6. With regard to the genuineness of the transfer certificate Ext. W/4 (Photo copy) it appears unblemished from any stand point. The management does not appear to have questioned it or insisted for the production of the original before them despite clear attention of the

management has been drawn to it by several representation of the workman. The management has not sit upon it to consider it either way in accepting or rejecting it but sticking to the earlier entries made under whatever circumstances. In their own words the date of birth mentioned in the initial period can be corrected on production of unimpeachable document and as such in view of holding the Ext.W/4(T.C.) as genuine the management is called upon to act on it and to grant relief to the workman longing for justice for more than a decade. In the result it is held that the action of the management in superannuating the workman Smt. Chhatreswari Sutradhar on 31-8-97 on the basis of wrong entry of her date of birth either as 27-8-39 or 10-1-1975 instead of 6-1-1942 is not legal and justified. The date of superannuation be corrected holding her date of birth as 6-1-1942 and all financial benefits accruing thereof to be disbursed to her within two months of the notification of the award. Option and benefit of V.R. Scheme then available to the workman as per rule does not extinguished. The management well do well if it allows workman to extend the same or to compensate her in any admissible manner including jub to her dependent as per Rule. Hence, it is ordered.

ORDER

Let an award be and same is passed in terms of the above findings. Copy of the award be sent to the Ministry of Labour, Govt. of India, New Delhi, for needful action.

MANORANJAN PATTAIAK, Presiding Officer

नई दिल्ली, 21 जून, 2010

का.आ. 1780.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय असनसोल के पंचाट (संदर्भ संख्या 96/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-06-2010 को प्राप्त हुआ था।

[संख्या एल-22012/364/1998-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st June, 2010

S.O. 1780.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 96/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ECL and their workman, which was received by the Central Government on 18-06-2010.

[No. L-22012/364/1998-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
ASANSOL

Present : Sri Manoranjan Pattnaik, Presiding Officer.

Reference No. 96 of 1999

Parties : Industrial dispute between the management of
Bonjemehari of colliery of M/s. E.C.L.,
Burdwan.

-Vrs-

Their Workman

Representatives:

For the management : Sri P.K. Goswami,
Advocate

For the Union (Workman) : Sri S.K. Pandey, Jt. Secy.
CMC(HMS) G.T. Road,
Asansol.

Industry : Coal State : West Bengal

Dated :08-06-2010

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial disputes Act, 1947 (14 of 1947) Govt. of India through the Ministry of Labour vide its letter No. L-22012/364/98-IR (CM-II) dated 7-7-99 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action taken by the Agent of Dalmia Colliery (presently under Bonjemehari colliery) under Salanpur Area of M/s. ECL by not offering appointment to the dependent son of late Sh. Mahabir Kaur, Ex-coal cutter as per clause 10-4-2 of NCWA-II was justified? If not, to what relief is the applicant entitled?"

2. Having received the order No. L-22012/364/98-IR(CM-II) dated 7-7-99 of the above said reference from the Govt. of India Ministry of Labour, New Delhi, for adjudication of the dispute a reference case No. 96 of 1999 was registered on 23-7-1999 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed.

3. The simple case of the union is that Late Mahabir Kaur was an employee under the employer of M/s. Eastern Coalfields Ltd. (ECL). He worked as coal-cutter at Dalmiya colliery under Salanpur Area of ECL after his appointment on 12-12-1966. While in service in the company of ECL he

died on 7-9-1982. As per provision under clause 10-4-2 of NCWA-II one dependent of the deceased is required to be given employment in his place. At the time of death of deceased workman his wife namely Smt. Mira Bai was already in employment and his son was minor. When his son attained majority his widow wife applied for employment for her son in the year 1985. The matter was discussed at various level of the management and the application was submitted with complete papers on 29-4-1991 with the management praying for employment to her son but the company did not pay any head. The Union took up the matter and raised an industrial dispute. On failure of the conciliation matter has been referred to this court by the Govt. of India, Ministry of Labour, for adjudication on the issue as to whether the action of the said management by not offering appointment to the dependent son of the deceased workman Late Mahabir Kaur is legal and justified? Both the parties relied on documentary evidence while the union adduced oral evidence.

3. On going through the pleading of the parties, the evidence and upon hearing the submission made by the learned counsel of M/s. ECL and the office bearer of the Union, Sri S.K. Pandey it is found that the parties are not variance with regard to the employment of the deceased workman under M/s. ECL and his death during the period of employment. It is also not refuted that the wife of the deceased workman was already in the job before his death. The Rules that govern the appointment in event of death of the workman during the period of employment is the provision under Chapter 10.2 of NCWA-II, there is no dispute on the legal position that the dependent son amongst others is to be provided with the employment in such eventuality. Now the question arises as to whether the right of dependent of the worker that accrues in the event of death of the worker while in employment extinguished in case no dependent is immediately available or still exists with claim of the eligible dependent subsequently advanced which happens in this case. Neither parties have indicated about any authority or cited in case laws on this point. It is quite certain that no time limit has been prescribed in NCWA-II governing the relevant panel or anywhere on this question. It does not appear reasonable to be prudent mind that the right of the workman for appointment of his dependent son can substantiate infinitely nor in any case it stands extinguished if no dependent come forward for appointment for whatsoever reason immediately. In this case the workman died on 7-9-1982 when his son was minor. The move for exercising the right was made in the year 1984. Under the circumstances, it can not be said that there was undue delay in making the move specially in view of the social background of the widow. The union has submitted certain documents, service papers and the death certificate of the deceased workman from Exhibit-W1 to W-5 only to

substantiate those facts which are not refuted by the management at all. Oral evidence of one witness has also been laid on those points. As indicated above there is no dispute regarding the service and death of the deceased workman nor on the fact that the nominee is his son. The management did not prefer to adduce evidence of any sort and simply herped on the point that the claim of the employment after attaining the majority by the nominee can not be considered as per dictum of Apex Court but the management did not at all place the case law on that score. The evidence of the witness, Sri Ram Swarup Yadav reveals that the nominee was directed to appear before the Board on 28-1-1992 and was found fit by the Board for employment. This fact was not challenged by the management. It shows that the application of the nominee was duly processed but for whatsoever reason the employment was not provided and it appears that no reason was assigned for such refusal despite due request of the application and the starting of the process for offering employment. This does not appear to be proper nor stands to any reason. It is blatant denial of natural justice. In all fairness the nominee who is otherwise not unfit for employment should be offered employment as per clause 10.4.2 of NCWA-II. At any rate the action of the management in not offering employment or in that respect not considering the application of the dependent son of the deceased workman for appointment is not legal and justified. He is entitled to be appointed according to his eligibility. Accordingly, the management is required to provide him with employment within 2(two) months of the notification of this award. Hence, it is ordered.

ORDER

Let an Award be and same is passed as per above. Send the copies of the award to the Govt. of India, Ministry of Labour, New Delhi, for information and needful.

MANORANJAN PATTNAIK, Presiding Officer

नई दिल्ली, 21 जून, 2010

का.आ. 1781.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं ईस्को के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय असनसोल के पंचाट (संदर्भ संख्या 30/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-6-2010 को प्राप्त हुआ था।

[संख्या एल-22012/252/2002-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st June, 2010

S.O. 1781.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 30/2003)

of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Ramnagore Colliery of M/s. IISCO and their workmen, received by the Central Government on 18-6-2010.

[No. L-22012/252/2002-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT ASANSOL

Present : Sri Manoranjan Pattnaik, Presiding Officer

Reference No. 30 of 2003

Parties : Industrial dispute between the management of Ramnagore Colliery of M/s. Indian Iron & Steel Co.

-Vrs-

Their Workman

Representatives:

For the management : Sri S. Mukherjee,
Advocate

For the Union (Workman) : Sri P. Goswami, Advocate.

Industry : Coal State : West Bengal

Dated : 20-5-2010

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) Govt. of India through the Ministry of Labour vide its letter No. L-22012/252/2002-IR (CM-II) dated 6-8-2003 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“whether the action of the management of Ramnagore Colliery of M/s. Indian Iron & Steel Co. (IISCO) in not correcting the date of birth of Sh. Mihir Paul as 3-9-1954 as per educational certificate is legal and justified? If not to what relief he is entitled?”

1. Having received the order No. 22012/252/2002-IR(CM-II) dated 8-8-2003 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi, for adjudication of the dispute, a reference case No. 30 of 2003 was registered on 01-10-2003 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statement along with the relevant documents and a list of witnesses in support of their case.

2. In response to the notices issued from this Tribunal both the parties made their appearance through their counsels and filled their written statement.

3. The simple case of the workman is that he is an employee of the management of M/s. Indian Iron & Steel Co. (IISCO) and has been working at Ramnagore colliery. At the time of his appointment i.e. on 1st February, 1975 his date of birth was wrongly recorded as 16-07-1950 instead of 03-09-1954. The workman approached the management several times to correct the date of birth the management did not pay heed to the same and the date of birth was not corrected. Due to the wrong entry in the service book the workman is going to retire before attaining his 60 years of age. Claiming that the workman has been issued with an admit card to sit in the West Bengal Board of Secondary Examination dated 29th March, 1973 containing his correct date of birth i.e. 3rd September, 1954, the workman urged for correction of date of birth.

4. The employer's averment on the other side is that the workman was very much aware of the entry of his date of birth in the service record of the company at the time of joining in service on 16-7-1950. The entry was made in Form 'B' register at his instance. Copy of the Identity Card was issued in the year 1976 by the management of Ramnagore Colliery of M/s. IISCO on the basis of the same. The workman now come forward after a long lapse of time and at the fag-end of his service to correct the date or birth with malafide intention to have undue gain. Challenging the claims of the workman as false, frivolous, speculative and motivated one and further challenging the dispute being barred by the principles of estopples, waiver, acquiescence, lack of cause of action, the employer urged for dismissal of claim of the workman.

5. Neither of the parties have relied on any evidence oral or documentary. Both the learned counsels of the parties have been heard on the matter at length. On perusal of their pleadings and upon hearing the learned counsels of both the sides, it is found that the claim of the workman is based on the duplicate copy of the Admit Card said to have been issued by the Board of Secondary Education containing the correct date of birth of the workman but same has not been filed in the Court. there is no other age proof relied on by the workman to substantiate his correct date of birth as 3rd September, 1954.

6. The Union has also failed to produce any evidence to the effect that the workman has moved to the authority for correction of date of birth at the earliest period. Had it been proved that the workman moved to his authority for correction of his date of birth in time, his bonafide could have been well proved in raising the dispute even in the year 2003 as it can not be said that move was made at the fag-end of service. In view of absence of any age proof being produced before the employer or in the court there after simple oral claim of the workman can not be accepted.

No reason or scope is left to grant relief to him by way of correcting the date of birth already borne out in the service record from the very inception. As such I found no merit in the claims of the union to grant relief to the workman and consequently it is held that the action of the management of Ramnagore Colliery of M/s. IISCO (Indian Iron & Steel Co.) in not correcting the date of birth of Sri Mihir Paul as 3rd September, 1954 as per Educational Certificate is legal and justified entailing no relief to the workman. hence ordered.

ORDER

Let an "Award" be and same is passed as per above. Send the copies of the award to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

MANORANJAN PATTNAIK, Presiding Officer

नई दिल्ली, 21 जून, 2010

का.आ. 1782.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं ई. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (संदर्भ संख्या 17/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-06-2010 को प्राप्त हुआ था।

[सं. एल.-22012/178/2000-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st June, 2010

S.O. 1782.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ECL and their workmen, which was received by the Central Government on 18-06-2010.

[No. L-22012/178/2000-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sri Manoranjan Pattnaik, Presiding Officer.

Reference No. 17 of 2001

Parties : The Industrial Dispute between the management of Kendra Colliery of M/s. ECL., Burdwan.

-Vrs-

Their Workman

Representatives:

For the management : Sri P.K. Das, Advocate

For the Union (Workman) : Sri Rakesh Kumar, General Secy. Koyala Mazdoor Congress, G.T. Road, Asansol.

Industry : Coal State : west Bengal

Dated : 1-6-2010

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) Govt. of India through the Ministry of Labour vide its letter No. L-22012/178/2000-IR (CM-II) dated 16-3-2001 has been pleased to refer the following dispute for adjudication by the Tribunal.

SCHEDULE

“Whether the action of the management of Kendra Colliery of M/s. E.C.L. in not providing employment to the dependent son-in-law of Sri Sribal Jaiswara is legal and justified? If not to what relief the workman is entitled?”

1. Having received the order No. L-22012/178/2000-IR(CM-II) dated 16-3-2001 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi, for adjudication of the dispute, a reference case No. 17 of 2001 was registered on 14-5-2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed.

2. The case of the workman (Sh. Sribal Jaiswara) is short is that he worked as a Timber Mistry under the management of Kendra Colliery of M/s. Eastern Coalfields Ltd. (ECL). In order to avail the benefit of Voluntary retirement on medical ground under clause 9.4.3. of NCWA-III he was medically examined and was found unfit for service. He nominated his dependent son-in-law for employment which was processed and Deptt. of the E.C.L. (HQ) for approval. He also submitted all required papers and the union represented his case but in vain. None of his other dependents were provided with employment even for some reasons the management did not accept the proposed nomination. The management, however, rejected the nomination without any valid reason. Hence, the reference.

3. The management has contested the claim of the workman without filing a pleading. The main plank of the management is that the nominee (son-in-law) of the workman

is not dependent one. It's counsel Mr. P.K. Das has participated in the proceeding and cross-examined the witnesses and argued the case strenuously.

4. There is virtually no dispute on the factual aspects in as much it relates to service of the workman (Sh. Sribal Jaiswara) under the employer of ECL. the opted for voluntary retirement on medical grounds, termination of service w.e.f. 2-5-1991 and nomination of his dependent son-in-law namely Harish Chandrika son of Charbharan Ram etc. It is also evident that the nomination was duly processed. Under Clause 9.4.3 of the National Coal Wage Agreement-III (NCWA-III) and clause-IV of NCWA-IV which governs the matter of employment. In the event of termination of service of a permanent employee on ground of medical fitness, a dependent workman to be provided with employment by the company. The list of dependents include son-in-law besides others which is certainly not in order of preference but according to the choice of the workman. If the nominee is not otherwise eligible for service things are different. The workman persistently pleaded that the son-in-law is dependent on him and to substantiate the same relied on both documentary and oral evidence. The documents include the marriage certificate of the nominee Harish Chandra with the daughter of the workman and the Indemnity bond (Ext. W/1) showing clearly the nominee as the dependent. That apart the oral evidence of the workman (WW-1) Rajinder Ram (WW-2) Smt. Usha Devi (WW-3) and that Harish Ch. Ram (WW-4) clearly establish not only the relationship of the workman in the nominee but also their dependency for purpose of the employment. His son is said to be employed elsewhere and other family members are not eligible for service. Under such circumstances there is no reason to deny the right of the workman that accrues in termination of his service before superannuation. By cross-examining the witnesses all that the management has tended to do is to establish that Harish Chandra (Nominee) is not the son-in-law of the workman. The management has, however, not succeeded in demolishing the oral evidence of any witness. The oral evidence includes that of the workman and his daughter and independent witness said to be their relative who is supposed to be well acquainted with the details of livings of the workman. All of them clearly say about the marriage of Harish Chandra with the daughter of the workman namely Usha Devi and about Harish Chandra's living with and dependency on the workman. Management has not disclosed the source or never tried to establish the contrary by any sort of evidence.

5. In view of the above there is no reason to discard the claim of the workman. The action of the management of Kendra colliery of M/s. ECL in no providing employment to the dependent son-in-law (Harish Chandra) of Sri Sribal Jaiswara is not legal and justified. The management is required under law to give employment of said son-in-law. The management is to provide notional employment as per

his eligibility from the date of the final rejection of the application of the workman with adequate compensation for the delay. Hence, it is ordered.

ORDER

Let an "Award" be and same is passed as per above findings. Send the copies of the award to the Govt. of India, Ministry of Labour, New Delhi, for information and needful.

MANORANJAN PATTNAIK, Presiding Officer

नई दिल्ली, 21 जून, 2010

का.आ. 1783.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय असनसोल के पंचाट (संदर्भ संख्या 95/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-6-2010 को प्राप्त हुआ था।

[सं. एल.-22012/91/2000-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st June, 2010

S.O. 1783.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 95/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ECL and their workman, which was received by the Central Government on 18-6-2010.

[No. L-22012/91/2000-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sri Manoranjan Pattnaik, Presiding Officer.

Reference No. 95 of 2000

Parties : The Industrial dispute between the management of Madhavpur Colliery of M/s. ECL., Burdwan.

-Vrs-

Their Workman

REPRESENTATIVES

For the management : Sri P.K. Das, Advocate

For the Union (Workman) : Sri Rakesh Kumar, General Secy. Koyala Mazdoor Congress, G.T. Road, Asansol.

Industry : Coal State : West Bengal

Dated : 10-6-2010

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-Section 2(A) of Section 10 of the Industrial disputes Act, 1947 (14 of 1947) Govt. of India through the Ministry of Labour vide its letter No. L-22012/91/2000-IR (CM-II) dated 18-9-2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Madhavpur Colliery of M/s. Eastern Coalfields Ltd., by not providing employment to the dependent of Sh. Lal Bahadur Pasi, Ex-U.G.Loader, is legal and justified? If not to what relief the workman is entitled?"

2. Having received the order No. L-22012/91/2000-IR(CM-II) dated 18-9-2000 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi, for adjudication of the dispute, a reference case No. 95 of 2000 was registered on 29-9-2000 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed.

Both the parties participated in the proceeding by filing pleading and documents. The learned counsel for the management and the authorised representatives of the union have been heard.

3. The case of the workman as per the pleading in short is that the workman Sh. Lal Bahadur Pasi, UG. Loader of Madhavpur Colliery, a permanent employee of M/s. Eastern Coalfields Ltd. (ECL) was declared medically unfit and was given premature retirement. His application for employment to his wife (Smt. Gama Devi) as per provision under the National Coal Wages Agreement (NCWA) was duly processed but was refused by the management. Only monetary compensation by way of maintenance at the rate of Rs. 2000 per month was sanctioned till her marriage or she attains 60 years of age. However, she refused to accept the same and she (Smt. Gama Devi) applied for employment to their dependent son who in the meantime was already become major but the authority did not take any action despite the same was duly processed and hence this reference for adjudication of the Industrial Dispute.

4. While admitting all other factual aspects of their case, the management maintain that the application was not considered as the wife of the workman was above 30 years in age and their son a minor. Their case being considered as per provision under clause 9.4.3 of NCWA and monetary compensation towards monthly maintenance was extended. The matter became final and there is no

scope for reopening of the same or reconsideration of the matter. Challenging the maintainability of the I.D. and alleging misconception, the management urged for holding their action legal and justified entitling no relief to the workman.

5. In view of the parties are not being at variance on the factual aspects of the case of the workman, the provision of law is of paramount consideration. As such the question that arises is (i) whether the refusal of employment to the wife of the terminated workman on ground of overage or on gender discrimination (as alleged in the rejoinder by the workman) is justified and (ii) whether the subsequent claim raised for employment to their major dependent son is sustainable.

6. Clause 9.4.0 to 9.4.3 of the NCWA-IV are the relevant provision governing employment to the dependent of the workman under broad head of social security. Clause 9.4.2 reads "The dependent to be considered for employment should be physically fit and suitable for employment and age not more than 30 years provided that the age limit shall not apply in case of spouse". As such the application of Smt. Gama Devi, the spouse of the workman for provided employment is quite admissible if she is not otherwise found unfit under the clause. The age limit of 35 years does not apply to dependent spouse. Hence, rejection of the application of Smt. Gama Devi for employment simply on the ground that she was over 35 years in age is not justified. Her refusal to accept the monthly maintenance denying the right of employment, on the other hand, is quite justified. It is not agitated by either side about the eligibility of the son of the workman nor adduced evidence on eligibility of the son who in the process became eligible as per clause 9.5.0 of NCWA-V as per the version of the applicant (Smt. Gama Devi). For purpose of determination of the scheduled issue however, it can safely be concluded that the action of the management of Madhavpur Colliery of M/s. Eastern Coalfields Ltd., by not providing employment to the dependent of Sh. Lal Bahadur Pasi, UG. Loader, is not legal and justified. She is entitled for employment since the date of her application under the provision of NCWA as discussed above. She be paid monetary compensation w.e.f. the date of unfitness i.e. 11-9-93 of the employee and employment immediately. Their option for employment to their dependent son said to have attained majority in the meantime and if not otherwise unfit for employment may be considered. The monetary benefit to be disbursed within 2(two) months of the notification of the award. Hence, it is ordered.

ORDER

Let an "Award" be and same is passed as per above. Send the copies of the award to the Govt. of India, Ministry of Labour, New Delhi, for information and needful.

MANORANJAN PATTNAIK, Presiding Officer

नई दिल्ली, 22 जून, 2010

का.आ. 1784.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन एग्रीकल्चरल रिसर्च इंस्टिट्यूट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सी.जी.आई.टी/एल सी/आर/88-89/94, 90-94, 92 से 96 तक/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-6-2010 को प्राप्त हुआ था।

[सं एल-42012/11,13,14,16,17,18,19,20/93-आई आर (डी यू)]
जोहन टोपनो, अवर सचिव

New Delhi, the 22nd June, 2010

S.O. 1784.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/88-89/94, 90-94, 92 to 96/94) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Agricultural Research Institute and their workman, which was received by the Central Government on 22-6-2010.

[No. L-42012/11,13,14,16,17,18,19,20/93-IR(DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT JABALPUR.

PRESIDING OFFICER : Shri Mohd. Shakir Hasan

No. CGIT/LC/R/88/94

Shri Ghanshyam,
S/o Shri Ganpat,
Gram : Pipalyahana,
Indore

Workman/Union

Versus

The Head,
Indian Agricultural Research Institute,
Regional Wheat Research Station,
Indore

Management

No. CGIT/LC/R/89/94

Smt. Ghisibai,
W/o Shri Babulalji,
Gram : Pipalyahana,
Indore

Workman/Union

Versus

The Head,
Indian Agricultural Research Institute,
Regional Wheat Research Station,
Indore

Management

No. CGIT/LC/R/90/94

Smt. Ayodhyabai,
W/o Shri Narasingh,
Gram : Pipalyahana,
Indore

Workman/Union

Versus

The Head,
Indian Agriculture Research Institute,
Regional Wheat Research Station,
Indore

Management

No. CGIT/LC/R/92/94

Smt. Reshambai,
W/o Shri Ramchandra,
Gram : Pipalyahana,
Indore

Workman/Union

Versus

The Head,
Indian Agricultural Research Institute,
Regional Wheat Research Station,
Indore

Management

No. CGIT/LC/R/93/94

Smt. Shantibai,
W/o Shri Amarsinghji,
Gram : Pipalyahana,
Indore

Workman/Union

Versus

The Head,
Indian Agricultural Research Institute,
Regional Wheat Research Station,
Indore

Management

No. CGIT/LC/R/94/94

Smt. Jasodabai,
W/o Shri Ramsinghji,
Gram : Pipalyahana,
Indore

Workman/Union

Versus

The Head,
Indian Agricultural Research Institute,
Regional Wheat Research Station,
Indore

Management

No. CGIT/LC/R/95/94

Shri Parwati,
W/o Shri Chain Singh,
Gram : Pipalyahana,
Indore

Workman/Union

Versus

The Head,
Indian Agricultural Research Institute,
Regional Wheat Research Station,
Indore

Management

No. CGIT/LC/R/96/94

Smt. Lallibai,
W/o Shri Radhakrishnan,
Gram : Pipalyahana,
Indore

Workman/Union

Versus

The Head,
Indian Agricultural Research Institute,
Regional Wheat Research Station,
Indore

Management

AWARD

Passed on this 11th day of June 2010

1. a. The Government of India, Ministry of Labour vide its Notification No. 42012/11/93-IR(DU) dated 13-7-94 has referred the following dispute for adjudication by this tribunal:—

“Whether the action of the management of Head, Indian Agricultural Research Institute, Regional Wheat Research Station, Indore in terminating the services of Shri Ghanshyam is legal and justified? If not, what relief he is entitled to?”

b. The Government of India, Ministry of Labour vide its Notification No. 42012/13/93-IR(DU) dated 13-7-94 has referred the following dispute for adjudication by this tribunal:—

“Whether the action of the management of Head, Indian Agricultural Research Institute, Regional Wheat Research Station, Indore in terminating the services of Smt. Ghishi Bai is legal and justified? If not, what relief she is entitled to?”

c. The Government of India, Ministry of Labour vide its Notification No. 42012/14/93-IR(DU) dated 13-7-94 has referred the following dispute for adjudication by this tribunal:—

“Whether the action of the management of Head, Indian Agricultural Research Institute, Regional Wheat Research Station, Indore in terminating the services of Smt. Ayodhya Bai is legal and justified? If not, what relief she is entitled to?”

d. The Government of India, Ministry of Labour vide its Notification No. 42012/16/93-IR(DU) dated 13-7-94 has referred the following dispute for adjudication by this tribunal:—

“Whether the action of the management of Head, Indian Agricultural Research Institute, Regional Wheat Research Station, Indore in terminating the services of Smt. Resham Bai is legal and justified? If not, what relief she is entitled to?”

e. The Government of India, Ministry of Labour vide its Notification No. 42012/17/93-IR(DU) dated 13-7-94 has referred the following dispute for adjudication by this tribunal:—

“Whether the action of the management of Head, Indian Agricultural Research Institute, Regional Wheat Research Station, Indore in terminating the services of Smt. Shanti Bai is legal and justified? If not, what relief she is entitled to?”

f. The Government of India, Ministry of Labour vide its Notification No. 42012/18/93-IR(DU) dated 13-7-94 has referred the following dispute for adjudication by this tribunal:—

“Whether the action of the management of Head, Indian Agricultural Research Institute, Regional Wheat Research Station, Indore in terminating the services of Smt. Jasoda Bai is legal and justified? If not, what relief she is entitled to?”

g. The Government of India, Ministry of Labour vide its Notification No. 42012/19/93-IR(DU) dated 13-7-94 has referred the following dispute for adjudication by this tribunal:—

“Whether the action of the management of Head, Indian Agricultural Research Institute, Regional Wheat Research Station, Indore in terminating the services of Smt. Parwati Bai is legal and justified? If not, what relief she is entitled to?”

h. The Government of India, Ministry of Labour vide its Notification No. 42012/20/93-IR(DU) dated 13-7-94 has referred the following dispute for adjudication by this tribunal:—

“Whether the action of the management of Head, Indian Agriculture Research Institute, Regional Wheat Research Station, Indore in terminating the services of Smt. Lalli Bai is legal and justified? If not, what relief she is entitled to?”

2. All the eight references are taken up together in the ends of justice as all are on a common subject matter of the same set of workmen.

3. The case of the workman in short is that the management/non-applicant grows quality of seeds and sells to the agriculturists and government departments and thus comes within the definition of an Industry under the Industrial Dispute Act, 1947. It is stated that the workmen were appointed as Beldar/Labour by the management permanently and they worked continuously till 1992.

Thereafter they were terminated from the services. It is stated that they had not been paid retrenchment compensation before termination of their services under the provision of I.D.Act. It is stated that they were asked to appear before the interview board but they were declared unsuitable and over age. The management is said to have appointed others ignoring the claim of these workmen who were experienced and senior. It is submitted that the workmen be reinstated and be regularized with back wages.

4. The management appeared in each of the references and filed same written statements separately. The case of the management, inter alia, is that the non-applicant is not an Industry. The mandate of I.A.R.I, Regional Station, Indore is to develop Wheat varieties and to improve over all wheat production in the region. The non-applicant is involved only in research work and is not doing business with profit motive. The wheat seeds is sold to government agencies and some seed to the farmers at the rate prescribed by the government. This Institution is excluded from the purview of the Industry. The further case of the management is that the workmen were engaged for specific period as a seasonal workers on daily wages during the sowing season, i.e. in Oct, Nov and December every year and during thrashing season in April, May and June. They were paid wages at the end of each month from the muster roll as per the rates prescribed under the Minimum Wages Act. They had never worked 240 days more during a period of 12 calendar months. They were not entitled to any compensation and they did not come under the purview of retrench employees. They were also not found suitable for permanent employment. It is submitted that they are not entitled to any relief.

5. On the basis of the pleadings of both the parties, the following issues are framed for adjudication—

- I. Whether the Indian Agriculture Research Institute Regional Wheat Research Station, Indore is an Industry?
- II. Whether the action of the management in terminating the service of the workmen is legal and justified?
- III. To what relief, they are entitled to?

6. Issue No.I -

It is a settled principle that it is the character of the activity which decides the question whether the activity in question attracts the provision of Sec-2(J) of the Industrial Dispute Act, 1947. The profit making motive or any other gainful object is an irrelevant consideration in determining whether an institution is an industry or not. According to the management, the main activity of the institution is to develop wheat varieties and to improve over all wheat production in the region. The further activity is that the new seed varieties are being sold to the government agencies and even to the farmers so that the productions

of the farmers and the government agencies are to be increased. The activity of the management as in the pleading clearly shows that it is an Industry and ultimately it relates to the production.

7. Now let us examine the evidence adduced by the parties in the case. The workmen have also adduced their evidence in their respective references. They have stated that the management sowed wheat and soyabean in his field and produced wheat seed. This shows that there is an activity whereby the wheat production is being increased by producing seed. Thus the evidence shows that the non-applicant is an Industry.

8. On the other hand, the management has examined Shri A. N. Rurali who is a Scientist in the non-applicant Institution at Indore. He has stated in his evidence that his institution does research work on wheat, soyabean and maize seeds. Thus on the basis of the discussion made above, it is clear that the activity of the institution is of an Industry. I find and hold that the non-applicant is an Industry. This issue is accordingly answered.

9. Issue No. II

The case of the workmen is that they were engaged permanently and worked continuously till 1992 and they had been terminated without giving any compensation under the provision of I.D. Act. Whereas the management case is that they were seasonal workers on daily wages and they were engaged three months for sowing and three months for thrashing the crops. The workmen are examined in their cases. The workman Shri Ghanshyam has admitted in his evidence that the management gave work for six months in a year. The workmen Smt Ghisibai, Ayodhya Bai, Resham Bai, Shanti Bai, Yashoda Bai, Parwati Bai and Lulli Bai have admitted in their evidence that earlier they were engaged almost for the whole year but later they were engaged two months for sowing and three months for harvesting. Their evidence clearly shows that they were seasonal workers on daily wages and were not engaged for the whole year. This also shows that they had been engaged for a fixed period and after completion of the period their services were automatically terminated. It is evident from their evidence that they were not retrenched rather they come under the purview of Section 2(00) (bb) of the I.D. Act.

10. To prove the case, the management has also adduced evidence. The management witness Shri A. N. Rurali is working as Scientist in the non-applicant institution. He is examined in all the reference cases. He has stated that seasonal workers were engaged for one month for sowing and for one month for harvesting. He has stated that these workers were never engaged for more than 100 days in a year. His evidence corroborates the case of the management that the workmen were seasonal workers and they were never engaged 240 days or more in a calendar year preceding the date of reference. His

evidence establishes the case of the management that the workmen are not entitled to any compensation under the provision of I.D. Act.

11. The learned counsel for the management has submitted that the seasonal workers are not entitled to retrenchment compensation. He has relied the decision reported in 1998(3)SCT 109. The Jind Co-operative Sugar Mills Ltd. versus the Presiding Officer, Labour Court, Rohtak wherein it is held that—

“During the course of arguments, it was not being disputed that respondent Atma Ram was a seasonal worker with the management of mill. Keeping in view the said fact, reliance was placed by the petitioner on two judgments of the Supreme Court to urge that it would not be a case of retrenchment contemplated under Section 2(oo) (bb) of the Industrial Disputes Act, 1947. In this regard reference can well be made to the decision of Supreme Court in the case of Morinda Cooperative Sugar Mills Ltd. v. Ram Kishan and others etc. JT 1995(6) S.C. 547. The Supreme Court in Para No. 5 of the judgement held as under:—

“The question is whether such a cessation would amount to retrenchment. Since it is only a seasonal work, the respondents cannot be said to have been retrenched in view of what is stated in clause (bb) of Section 2(00) of the Act. Under these circumstances, we are of the opinion that the view taken by the Labour Court and the High Court is illegal. However the appellant is directed to maintain a register of all workmen engaged during the seasons enumerated herein before and when the new season starts the appellant should make a publication in neighbouring places in which the respondents normally live and if they would report for duty, the appellant would engage them in accordance with seniority and exigency of work.”

Similarly, in the decision of Anil Bapurao Kanase v. Krishna Sahakari Sakhar Karkhana Ltd. and another, 1997 Suprme Court Cases (L&S) 1637 : 1997(3)SCT 642, while referring to the decision in Morinda Cooperative Sugar Mills Ltd. (supra) the Supreme Court held as under;

“Since the present work is seasonal business, the principles of the Act have no application. However, this court has directed that the respondent management should maintain a register and engage the workmen when the season starts in the succeeding years in the order of seniority. Until all the employees whose names appear in the list are engaged in addition to the employees who are already working, the management should not go in for fresh engagement of new workmen. It would be incumbent upon the respondent management to adopt such procedure as is enumerated above.”

Keeping in view the said pronouncements of the Supreme Court, indeed, the award of the Labour Court be sustained.

For these reasons, the writ petition is accepted and the impugned award is quashed. It is directed that since the work was seasonal, respondent No. 2 was not entitled to retrenchment contemplated under clause (bb) of Section 2(oo) of the Industrial Disputes Act. But it is directed that the management petitioner would maintain a register and engage the workmen when the season starts each year in the order of seniority. Until all the employees are engaged in addition to the employees already working, the management shall not go for fresh engagement of new workmen."

Thus it is clear that the workmen are not said to be retrenched employees in view of clause (bb) of Section 2 (oo) of the I.D. Act and the action of the management appears to be legal and justified. This issue is decided in favour of the management.

12. Issue No. III

On the basis of the discussion made above, it is clear that the workmen are not entitled to be reinstated in the light of the decision of the Hon'ble Supreme Court but the management must maintain a register as has been observed and they are not entitled to any relief. Accordingly the references are answered.

13. In the result, the award is passed without any order to costs.

14. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 22 जून, 2010

का.आ. 1785.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरदर्शन केन्द्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 12/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-06-2010 को प्राप्त हुआ था।

[सं. एल. 42012/174/99-आई आर (डीयू)]

जोहन टोपनो, अवर सचिव

New Delhi, the 22nd June, 2010

S.O. 1785.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the

management of Doordarshan Kendra and their workman, which was received by the Central Government on 22-06-2010.

[No. L-42012/174/99-IR(DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT JAIPUR

Present : N. K. PUROHIT, Presiding Officer

I.D. 12/09

Reference No. L-42012/174/1999-IR(DU)
dated : 16-5-2008

BETWEEN

Shri Babulal Prajapat
S/o Shri Shobha Ram, Vill; Pahadi,
P.O. Gudla, Tehsil & Dist: Karauli (Raj.)

And

The Station Engineer (Maintenance)

Doordarshan Kendra, Karauli (Raj.)

AWARD

8-6-2010

1. The Central Government in exercise of powers conferred under clause (d) of sub-section 1& 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication which is as under:—

"Whether the action of the management of Station Engineer (maintenance), Doordarshan Kendra, Mathura in discontinuing the services of Shri Babulal Prajapat w.e.f. 15-1-1999 is legal and justified? To what relief the workman Shri Babulal Prajapat is entitled to and from which date?"

Subsequently, vide corrigendum dated 1-5-2009 in said schedule for the words "Station Engineer (Maintenance), Doordarshan Kendra Mathura, Station Engineer (Maintenance), Doordarshan Kendra, Karauli, substituted".

2. Pursuant to the reference, the workman in his Statement of claim has contended that he was initially appointed in the month of July, 1998 as helper at Doordarshan Kendra, Karauli. Thereafter, his services were terminated by verbal order on 15-1-1999. He had continuously worked for more than 240 days despite this prior to his termination no notice was served upon him nor

the retrenchment compensation was paid to him. He has further contended that after the termination of his service new hands Shri Vinod Kumar and Shri Madan Mohan had been appointed by the management. He has also contended that at the time of termination of his services, junior employees were retained by the management. Thus the non-applicant has violated the provision of Section 25(F), (G), & (H) of the Industrial Disputes Act. He has prayed that his termination order dated 15-1-1999 may be declared as illegal and unjust and he may be reinstated in the service with its continuity.

3. None appeared on behalf of the non-applicant despite service of notice therefore, the then learned Presiding Officer ordered, to proceed ex-parte against the non-applicant on 15-3-2010.

4. The workman in support of his claim has submitted his affidavit along with photocopies of documents Ex-W-1,2,3,&4.

5. Heard the arguments of learned Representative on behalf of the workman and perused the relevant records.

6. Initial burden was on the workman to prove that he had in fact worked for 240 days in the preceding 12 months from the date of his alleged termination i.e. 15.1.1999 and his termination was in violation of Section 25(F) of Industrial Disputes Act. The workman in his affidavit has stated that he had worked for 198 days during the said period. It is not the case of the workman in his statement of claim that when the holidays are counted with the 198 days, then the total number of days exceed over 240 days. He has produced photocopies of the tool register for the period July, 1998 to September, 1998 only. Thus, it is not evident from the said record that he had even worked for 198 days. During the course of arguments the learned representative has admitted this fact that the workman had worked for 198 days only. It is evident from the pleading as well as documents produced by him that workman had not worked for 240 days during preceding 12 months from the date of his alleged termination. As such, since the workman had not completed 240 days of work with the management, the management was under no obligation to comply with the provisions under section 25(F) of the Act.

7. So far as the provision of 25(G) of the Act is concerned, there is no specific pleading in statement of claim that at the time of alleged termination of the service of the workman, junior employees were retained by the management. He has not disclosed the names of any employees in his affidavit. Therefore, the workman has also failed to prove that his service has been terminated in the violation of 25 (G).

8. The learned representative on behalf of the workman has submitted that after the termination of the services of workman w.e.f. 15-1-1999 Sh. Vinod Kumar and Sh. Madan Mohan were appointed by the management in

his place without offering him any opportunity of employment. He has further submitted that section 25(H) is independent of 25(F) and even if the workman could not be able to establish his case u/s 25(F) of the Act, it is still open him to make out his case u/s 25(H) of the Act. In support of contention the learned representative on behalf of the workman has relied upon decision in 1996 (5 SCC 419) Central Bank of India v/s Satyam and others.

9. I have given my thoughtful consideration, on the submissions made by the learned representative on behalf of the workman.

10. In the present case the workman has alleged in his statement of claim as well as in his affidavit that after termination of the service w.e.f. 15-1-1999 Shri Vinod Kumar & Shri Madan Mohan were appointed by the management as workmen without offering him an opportunity of employment. Since, the opposite party has not appeared and filed its written statement, there is no rebuttal of the above statement of the workman and there is no reason to disbelieve his statement on oath. Thus, it is held that the non-applicant management has not complied with the provision u/s 25(H) of the Act. Although, the workman has filed to establish that his termination is in violation of section 25(F) of Industrial Disputes Act, but in 1996 (5 SCC 419) Hon'ble Apex Court has laid down that even the workman who had not completed 240 days in the calendar year do fall under the beneficial provisions of section 25(H) read with Rule 77 and 78.

11. Thus, in view of the aforesaid observation and discussions the claim of the workman deserves to be allowed on the ground of non compliance of provision under section 25(H) of the Act.

12. In the statement of claim the workman has not embodied the fact that he has not remained in gainful employment since his termination, nor he has described this fact in his affidavit. Hence, keeping in view the entire facts and circumstances, I do not deem it appropriate to award the back wages to the workman.

13. Since, the action of the management of Doordarshan Kendra, Karauli in discounting the service of the workman Babulal w.e.f. 15-1-1999 is in violation of provision of section 25(H) of the Industrial Disputes Act, the said action is illegal and unjustified. Resultantly, he is entitled to be reinstated in the service with its continuity. However, under the circumstances he is not entitled to get the back wages. The reference under adjudication is answered accordingly.

14. Award as above.

Let a copy of the award be sent to the Central Government for publication u/s 17(1) of the Industrial Disputes Act.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 22 जून, 2010

का.आ. 1786.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल इन्स्टिट्यूट ऑफ फैशन टेक्नोलॉजी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 58/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-6-2010 को प्राप्त हुआ था।

[सं. एल-42012/46/2007-आईआर(डीयू)]

जोहन टोपनो, अवर सचिव

New Delhi, the 22nd June, 2010

S. O. 1786.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.58/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of National Institute of Fashion Technology and their workman, which was received by the Central Government on 22-6-2010.

[No. L-42012/46/2007-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Friday, the 18th June, 2010

Present: A. N. Janardanan, Presiding Officer**Industrial Dispute No. 58/2007**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of National Institute of Fashion Technology and their Workman)

BETWEEN

Sri. Sam D. Raja Prabhu : Ist Party/Petitioner
"Jane Villa" 13 Jagadambal Street
Nelvayal Nagar, Perambur
Chennai - 600011

Vs.

1. The Registrar : Ist Respondent/Ist Party
National Institute of Fashion Technology
Old Mahabalipuram Road, Taramani
Chennai

2. The Dy. Director General
National Institute of Fashion Technology
Hauz Khas Head Office,
New Delhi.

: 2nd Respondent/2nd Party

APPEARANCE

For the 1st Party/ Petitioner : Sri S. K.
Krishnamurthy
For the 2nd Party/1st and 2nd : Sri K. V.
Respondent : Sundararajan
& Others

AWARD

The Central Government, Ministry of Labour vide its Order No. L-42012/46/2007-IR (DU) dated 8-10-2007 referred the following Industrial Disputes to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of National Institute of Fashion Technology, Chennai in terminating the services of their workman Shri Sam D. Raja Prabhu w.e.f. 10-7-2002 is legal and justified? If not, to what relief the workman is entitled to?"

2. After the receipt of Industrial Dispute, the referred ID was taken on file as I.D. 58/2007. Pursuant to notice both the parties entered appearance through their respective counsel and filed their Claim and Counter Statement as the case may be.

3. The averments in the Claim Statement briefly read as follows :

The First Party joined the services of the Second Party as machine Mechanic on 9-4-1996, thereafter appointed as machine Lab. Assistant with unblemished service was suspended on 14-8-2000 alleging him to have acted against the interests of the students causing disrepute to the Institute by the Director without authority. The objection raised by the petitioner was fruitless. Charges were framed and enquiry was held behind his back violating natural justice. Show Cause Notice was issued proposing his removal from service under the policy of hire and fire. Copy of the complaint of students was denied to him. It was also not produced in the enquiry. In fact there was no complaint at all. The petitioner moved in Writ before the Hon'ble High Court of Madras in which fresh enquiry was ordered giving opportunity to him. On 22-5-2001 charges were framed similar to that of earlier one which is vague and non-speaking. The complaint was not put to light vitiating the enquiry. But undated typed complaint allegedly signed by students with vague allegations was given as a eyewash to penalize the petitioner. Complaint is totally false created for sacking the First Party. No single student had given complaint against the petitioner. Complaints allege of false allegations of long antiquity. Enquiry Officer was biased and unfair. Advocate's assistance was denied. Favourable deposition was interpreted against him. There was no specific allegation by any student. Absence of complainant would mean that there was no complaint. In the place of no proof of charges the same were held proved except (2) and (3).

Notice of proposed removal from service was given which was ordered on 10-7-2002. Appeal was not fruitful which had been kept pending for long. The enquiry was held in colourable exercise of power and is arbitrary and unfair. It is in violation of natural justice. The punishment is highly excessive. The Petitioner is to be reinstated with all benefits.

4. In the Counter Statement the Respondent briefly avers as follows :

The petitioner was given oral warning in a very sensitive caste issue of a student. Due enquiry was conducted as per High Court decision after framing charges. The petitioner was permitted to peruse the entire documents and records. He admitted complaint copy to have been given with Second Charge Memo. That the complaint was false created for sacking him is not correct. That the complaints are vague and non-speaking is false. He was given ample opportunity in the enquiry. He is aware of the misconduct committed. He has not properly maintained the laboratory and mis-conducted himself. The enquiry is as per principles of natural justice. he signed the enquiry proceedings with no demur. The appeal was rightly rejected. The charges are grave. Hence the claim is to be dismissed.

5. Point for Consideration are:

(i) Whether the termination of the service of the petitioner by the Respondent is legal and justified ?

(ii) To what relief the concerned workman is entitled ?

6. The evidence consists of testimony of WW1 and Ex.W1 to Ex.W12 on the petitioner's side and on the Respondent's side MW1 was examined and Ex.M1 to Ex.M13 was marked. Ex.M3 was marked subject to objection that the same was not produced during domestic enquiry and oral evidence of MW1.

Points (i) & (ii)

7. The learned counsel for the petitioner argued that the removal of petitioner from service is an instance of clear vindictiveness against the petitioner who has had admittedly a good record of past service. He would continue to argue that there were two charge Memos and that initially complaint was by 2 students on which charge was framed. In Writ before the High Court the enquiry was held vitiated and the punishment quashed ordering fresh enquiry on the basis of 2nd complaint which amounts to denovo enquiry in abuse of the due process of law. He would contend that the complaint thrust in was on papers with signatures of complainants on the back and the same amounts to a mere eyewash enquiry. According to him no student has deposed against the petitioner and if at all anything is stated is out of a compulsion to do so. The girl student victims to the alleged misbehaviour have not been witnesses in the enquiry to give any direct account

regarding the occurrence. The charges are assailed as being without particulars of any relevant materials but are blanket allegations. The action towards the petitioner is an act of victimization by the Respondent/Management in colourable exercise of power under a biased report in a farce enquiry just to victimize him and throw out of employment.

8. The contra arguments on behalf of the Respondent are refuting the arguments on behalf of the petitioner. Ex.M3 evidently was admitted in evidence subject to the objection that it was not produced during domestic enquiry. There is a challenge that the charges were vague and non-speaking though the case of the petitioner in the box as WW1 is that he has understood the charges. The allegations are assailed as being not specific. The punishment is also being assailed as excessive.

9. A scrutiny of the records, the enquiry proceedings and the finding would show that the enquiry proceeded on 7 allegations against the petitioner lodged by a group of persons numbering to 26. The allegations upon which the petitioner faced enquiry do not find a place in the respective pleadings of either party in specific and categorical terms. They do not disclose what precisely are the charges framed against the petitioner. The Counter Statement only proceeds simply denying the allegations in the Claim Statement without mentioning anything clearly or specifically about the charges against the petitioner with relevant or material particulars. The question stems from the above fact why the Respondent should frown from mentioning the charges in the pleadings for which petitioner faced enquiry at their hands, if the enquiry was actually on the same allegations? There was an enquiry held in which the petitioner is seen to have participated. The enumerated allegations as found from Ex.M5 (complaint) allegedly of students 26 in number are (i) that initially in Semester-I, they were forced to buy garment construction materials from the petitioner which later was found to have been charged more than the double the actual price (ii) he kept tampering with the Sewing Machines in order to own importance during the needs of students but he was never available and students had to go hunting for him (iii) the petitioner tried to create pertition between students as South Indians and North Indians (iv) he intimidated the GMT 1999-2001 students that he would create serious problems during their internship and reduce their marks creating fear and loss of confidence in them (v) threatened students with being beaten up collecting gangs from outside if they do not listen to him (vi) he misbehaved with girl students by making obscene remarks during talking (vii) misused NIFT property like internet, air-conditioners, computer lab etc. during night time.

10. The above enumerated charges do not find their listing as such with material or relevant particulars by way

of averments in the Claim Statement. The Claim Statement recitals take the form of some allegations against the petitioner in a vague form. It is elementary principle that for an adjudication the material allegations have to be specifically recited in the pleadings. Based on the pleadings only evidence has to be let in. In this case without any specific allegations in the pleadings some materials are projected against the petitioner by way of some written documents or proceedings alleging petitioner to have had indulged in various misconducts. It is fundamental that there cannot be any evidence let in without factual foundation having been laid down in the pleadings to substantiate which alone evidence is to be adduced. Here what we see is something unusual in the sense that some accusations are sought to be leveled against the petitioner without the said accusations having been specifically and unambiguously delineated in the Counter Statement that underlay the accusations. Though the petitioner in his pleadings does not lay down the whole text of the episode of what has been alleged against him couching the same in abstract vague and subdued terms, it was for the Respondent to bring out in clear and specific terms as to what are the charges leveled against him upon which he faced the enquiry. This has to be so especially in view of the allegation that there have been diverse complaints leaving uncertainty regarding which he has to meet in his defence. But the Respondent instead of doing so opted to meet the case of the petitioner with the same degree of vagueness and ambiguity leaving not open what the elements or essence of the charge against the petitioner are.

11. The enquiry proceeded in the absence of clear complaints of allegations but with some materials which purport to attribute the petitioner with certain misconducts which if proved and are true certainly are acts unbecoming of petitioner as an employee under the Respondent. In these circumstances, I am left with no go other than to hold that the enquiry conducted has not been fair and proper. I am also equally fortified in holding that the finding under the defective enquiry is not fair and proper. Therefore, the impugned action of removal from service is not to be sustained. The same is liable to be set aside and the petitioner is entitled to be reinstated into service forthwith.

12. In the result, the Respondent/Management is ordered to reinstate the petitioner into service forthwith with continuity of service and all attendant benefits with 25% backwages.

16. The reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th June, 2010)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined:-

For the 1st Party/Petitioner :

WW1, Sri Sam D. Raja Prabhu

For the 2nd Party/Management :

MW1, Dr. S. Gopalakrishnan

Documents Marked :-

On the Petitioner's side

Ex.No.	Date	Description
Ex.W1	10-11-2000	Appointment Order of 1st Party
Ex.W2	14-8-2000	Suspension Order of 1st Party
Ex.W3	1-2-2001	Memorandum
Ex.W4	12-4-2001	Order in WP No.2823 of 2001
Ex.W5	25-5-2001	Memorandum
Ex.W6	1-10-2001	Explanation of the 1st Party
Ex.W7	16-11-2001	Memorandum
Ex.W8	4-7-2001	Depositions of Enquiry Proceedings
Ex.W9	18-7-2001	Enquiry Report
Ex.W10	10-7-2002	Memorandum of Removal
Ex.W11	16-8-2003	Appeal of 1st Party
Ex.W12	20-4-2007	Order in Appeal

On the Management's side

Ex.No.	Date	Description
Ex.M1	15-9-2009	Authorization letter from Director NIFT- (original)
Ex.M2	6-6-2009	Memo (Office copy)
Ex.M3	2-6-2000	Complaint made by GMT-IV Students (Original)
Ex.M4	6-6-2000	Pg-70 of Peon Book- (Xerox Copy)
Ex.M5	10-8-2000	Complaint made by GMT-III Students (Original)
Ex.M6	15-9-2000	Enquiry Report (Xerox Copy)
Ex.M7	25-5-2001	Charge Memo alongwith A/D Card- (Office copy) A/D Card- Original
Ex.M8	18-6-2001	Order of appointment of enquiry officer alongwith A/D card- Original Office copy
Ex.M9	20-6-2001	Order to appear before the Enquiry Officer alongwith A/D card- Original Office copy

Ex.10	4-7-2001	Depositions of enquiry Proceedings- (original)
	5-7-2001	
	6-7-2001	
Ex.M11	18-7-2001	Findings of the Enquiry Officer- (original)
Ex.M12	16-11-2001	Memo of proposal of removal of service alongwith A/D card- Original/Office copy
Ex.M13	10-7-2002	Memo of removal of Service alongwith with A/D card- Original/Office copy

नई दिल्ली, 22 जून, 2010

का.आ. 1787.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वीवर्स सर्विस सेन्टर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/217/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-6-2010 को प्राप्त हुआ था।

[सं. एल-42012/30/90-आईआर(ड्यु)]

जोहन टोपनो, अवर सचिव

New Delhi, the 22nd June, 2010

S.O. 1787.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/217/90) of the Central Government Industrial Tribunal-cum-Labour Court Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Weavers' Service Centre and their workmen, which was received by the Central Government on 22-6-2010.

[No. L-42012/30/90-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/217/90

Presiding Officer : SHRI MOHD. SHAKIR HASAN

Shri Sohanlal S/o Ganpatlal Upadhyay,
Gram. Bhata Barodi,
Post Baghana,
Distt. Indore (MP)

Workman/Union

Versus

Deputy Director ,
Weavers' Service Centre,
F/4, Industrial Estate
Indore (MP)

Management

AWARD

Passed on 4th day of June, 2010

1. The Government of India, Ministry of Labour vide its Notification No. L-42012/30/90-IR (DU) dated 9-11-90 has referred the following dispute for adjudication by this tribunal:-

"Whether the action of the management of Dy. Director, Weavers' Service Centre, Indore in terminating the services of Shri Sohanlal S/o Sh. Ganpatlal, Ex-LM Driver w.e.f. 13-3-87 without charge-sheet enquiry or retrenchment compensation is justified? If not, to what relief the workman entitled for?"

2. The case of the workman, in short, is that the workman was employed as a Driver against the permanent vacant post by the management on 26-7-1985 and worked continuously till 13-3-87. He was terminated from the service by the order No. WSCI/ADMN/ 1 (2) 1285 dated 13-3-87 without assigning any reason. It is stated that he was terminated without any domestic enquiry and without giving any opportunity to defend himself in accordance with law. He is said to have been terminated to give favour to another person on the said post and the victimisation by the management to the workman is unfair labour practice. He had neither given any notice of retrenchment nor any compensation was paid and had violated the provision of Industrial Dispute Act. The workman seeks relief that the termination order be declared illegal and be re-instated in service with back wages and cost of the suit.

3. The management appeared and filed a written statement. The case of the management, inter alia, is that the Weavers' Service Centre is not an industry and it was created for development of handloom weavers through which industry would receive designs, technical advice and assistance in pre-loom and post-loom production process. It is stated that the workman was appointed as a L.M.V. Driver by the Service Centre from open market from 26-7-85. His status was a Government servant and he was terminated w.e.f. 13-3-1987. He is not a workman within the definition under I. D. Act. Again it is stated that the workman was appointed on 30-10-85 in a temporary capacity for a period of 90 days on adhoc basis and had no right to be regularised or continue in service. The post of driver was for ex-serviceman and therefore his service was terminated as not required w.e.f. 25-11-85. It is stated that one month notice was not necessary as he had no right to continue in a post reserved for ex-serviceman. It is stated that the workman does not possess the necessary qualification for appointment to the post of driver under the recruitment rules and the person eligible under the recruitment rules has been appointed on the post of driver. It is submitted that the reference be answered in favour of the management.

4. On the pleading of both the parties the following issues are settled for adjudication.

- I Whether the Weavers' Service Centre, Indore is an industry under the I.D. Act, 1947?
- II Whether the action of the management in terminating the services of the workman w.e.f. 13-3-1987 is justified?
- III To what other relief the workman is entitled for?

5. Issue no. I

The Industry is defined in Section 2(j) of the Industrial Disputes Act 1947 (in short here-in-after referred as I.D. Act 1947) It is read as follows-

“ ‘Industry’ means any business trade, undertaking, manufacture or calling of employers and includes any calling service, employment, handicraft or industrial occupation or avocation of workman”

6. It is a settled principle that in determining whether an enterprise is an Industry or not, the non-existence of profit making motive or any other gainful object is an irrelevant consideration. The most decisive tool for such purpose is the nature of the activity in question whether it attracts the provision of section 2 (j) of the I.D. Act 1947.

7. In the light of above consideration, the evidence is to be examined as to whether Weavers' Service Centre, Indore is an Industry. Four witnesses are examined on behalf of the workman. Witness no. 1 Shri Sohan Lal is the workman himself. He has stated that Weavers' Service centre did the work of paper designing and preparing samples and the same were sold in society and in Private market. He has further stated that the management used to sell the goods on price and receipt was issued. Witness no. 2 Manoj has also corroborated the fact in his evidence that on 5-12-95 he went in an exhibition and there was stall of the said Service Centre and purchased bed sheet from the said stall. Receipt was given which is marked as Ext P-1. The said receipt bears the seal of the Weavers' Service Centre, Indore and a bed sheet was sold @ Rs 133. This fact clearly shows that the activity of the Service Centre was of the Industry and it also earned profit from the service done in the Centre. Witness no. 3 Shri P. G. Pawar was store keeper in the said Service Centre. He has further stated that his work was to distribute materials to the workmen. He has further stated that the cashier maintained accounts of the goods sold. He has proved the monthly progress report of the month of December 1994 which is marked as Ext P/2. He has also proved the note of the Asstt. Director of the work of the Centre which is marked as Ext P/3. These documents show that the Service Centre had prepared hand printed series bed sheet, also plain bed sheet for local market etc. and the same were sold and earned profit. Thus the activity of the Centre proves that it is an Industry. Witness No. 4. Shri S. G. Patorkar appears to be employee of the Employment Exchange. Thus the Oral and Documentary evidence adduced by the workman

substantiated that Weaver's Service Centre, Indore is an Industry.

8. The management has also examined two witnesses in the case. Management witness No. 1. Shri Arunkumar Jaiswal is Dy. Director of the Centre. He has stated that hand loom items were prepared in the Centre and the society used to purchase. He has stated that the purpose was to promote production development. The activity of the Centre clearly shows that it is an Industry whose purpose to provide service to promote Industry also. Witness no.2 Shri Rajendra Kr. Parmar is not on the above point. Thus on the basis of discussion made above it is clear that the Weaver's Service Centre, Indore is an Industry. This issue is accordingly decided.

9. Issue no.2

Now the question as to whether the termination of service of the workman w.e.f. 13-3-87 is justified. From the aforesaid issue, it is evident that the Weavers' Service Centre, Indore is an Industry. As such the applicant comes under the provision of 'workman' as has been defined in 2 (j) of the I.D. Act 1947. According to the workman, he was appointed as a Driver against the permanent post and worked from 26-7-1985 to 13-3-1987 continuously. He was terminated without any domestic enquiry and notice. No compensation money is also paid in accordance with I.D. Act, 1947 whereas the management has admitted that he was appointed as a L.M.V. Driver by the Weaver's Service Centre, from Open Market from 26-7-1985 and was terminated from service w.e.f 13-3-1987. Further the case of the management is that the workman was appointed on 30-10-85 in temporary capacity for a period of 90 days on adhoc capacity. It appears that there is no consistent case of the management. Sometimes it is stated that he was appointed on 26-7-1985 and sometimes it is stated that he was appointed on 30-10-85 for 90 days. Admittedly no domestic enquiry was conducted nor any notice was sent before termination. Admittedly no compensation money was paid to the workman. It is also admitted that thereafter the person was appointed on the post of driver.

10. Thus the following facts are admitted facts.

- I. The workman was appointed on 26-7-1985 and was terminated w.e.f. 13-3-1987.
- II. No domestic enquiry was conducted, nor any notice was given before termination.
- III. No Compensation money was paid to the workman in accordance with the I.D. Act of the Services rendered by him.
- IV. After his termination, another person was appointed on the post of driver.

11. To prove the case, the workman has adduced oral and documentary evidence. Witness No. 1 Shri Sohanlal

is the workman himself. He has supported his case in his evidence that he was appointed on the post of Driver in Weavers' Service Centre on 26-7-85 and was terminated on 13-3-87 without assigning any reason. This shows that he worked about more than 19 months in service centre continuously. He has further stated that no enquiry was done nor any compensation was paid before termination. He has also supported this fact that another person was engaged in his place. He has denied that he was appointed for a fixed period. He has been cross-examined at length but there is nothing to disbelieve this witness. Witness No.2 Manoj and witness No.3 Govind Rao Pawar are not on the point of appointment and termination of the workman. Witness No.4 Shri S. G. Potarkar was Dy. Superintendent of the Weavers' Service Centre, Indore. He was directed to bring the letter dated 6-12-86 of the Employment exchange and the list of applicants sent to the Service Centre. He has admitted that the workman was appointed as a temporary Driver. Thus the oral evidences show that the workman was appointed from 26-7-85 and continued till 13-3-1987.

12. The workman has also adduced documentary evidence. Exhibit W/1 (Paper No. 19/2) is the work certificate issued by the Deputy Director of the Service Centre. This certificate shows that the workman worked as a Driver from 26-7-1985 to 28-10-1985 on daily wages, from 29-10-85 to 25-11-85 on regular basis and from 26-11-85 till the issuance of work certificate as casual labour. This shows that the workman was engaged on daily wages and sometime as temporary employee but he was working continuously. Exhibit W/2 in the appointment letter dated 19-12-86 issued by the Deputy Director of the Weavers' Service Centre, Indore. The appointment letters shows that he was selected as a temporary L.M.V. Driver in a short term on pay scale after taking interview. It further shows that it was not a contract of appointment for a specific period rather the period of employment was wide open and not fixed. I find that it does not come under the provision of Section 2 (oo) (bb) of the I.D. Act, 1947. The termination letter dated 13-3-1987 (Paper No. 19/5), which is an admitted document, shows for the first time that the workman was appointed on adhoc basis for 120 days w.e.f. 13-12-1986. This fact is not acceptable because the appointment letter (Exhibit W/2) does not disclose this fact. It cannot be inferred from the termination letter that the appointment was for a fixed period on contract. Thus from the oral and documentary evidence of the workman and from the pleading of both the parties, it is established that the workman was engaged on 26-7-1985 and worked continuously till 13-3-1987. It is evident that the workman shall be deemed to be in continuous service for a period of one year during a period of twelve calendar months preceding the date with reference. This shows that Section 25-F of the I.D. Act 1947 is applicable in the case and admittedly no notice or one month pay in lieu of notice or compensation was paid in compliance of the Section 25-F of the I.D. Act, 1947.

13. On the other hand, the management has also adduced evidence in the case. The management witness Shri Arun Kumar Jaiswal was Dy. Director of the Service Centre, Indore. He has stated that the workman was appointed in July 1985. He has stated that the workman was not ex-serviceman as such he was terminated. This fact contradicts the termination letter (Paper No.19/5) which shows that he was terminated because his appointment was on adhoc basis for 120 days. He has further stated that the post of driver is not vacant and on that post, schedule caste person is appointed. This further shows that the ex-serviceman was not appointed. However his evidence shows that the workman was in continuous service since July 1985 till his termination. Another management witness Shri Rajendra Kumar Parmar was Assistant Director of the said centre. He has supported the case of the workman in cross-examination. He has stated that the workman was employed as driver from July 1985 to March 1987. This shows that he was in continuous employment for more than 19 months. This clearly shows that Section 25-F of the I.D. Act is applicable in the case and the termination of the workman without complying the provision of Section 25-F of the I.D. Act 1947 is not justified. Accordingly this issue is decided in favour of the workman and against the management.

14. Issue No. III

On perusal of the evidence on record, it appears that there is no evidence that the workman was not in gainful employment after the termination from service. As such the workman is not entitled to any back wages. Thus I find and hold that the action of the management in terminating the service of Shri Sohanlal w.e.f. 13-3-87 is not justified. Accordingly I direct the management to reinstate the workman from the date of termination without back wages. The reference is accordingly answered.

7. In the result, the award is passed with order to payment of costs of Rs. 10,000 (Rupees Ten Thousand only) to the workman by the management.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 22 जून, 2010

का.आ. 1788.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.एस.एन. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण /श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/117/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-6-2010 को प्राप्त हुआ था।

[सं. एल-40012/55/2005-आईआर (डी.यू.)]

जोहन टोपनो, अवर सचिव

New Delhi, the 22nd June, 2010

S.O. 1788.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/117/2005) of the Central Government Industrial Tribunal-cum-Labour Court Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BSNL and their workman, which was received by the Central Government on 22-6-2010.

[No. L-40012/55/2005-IR (DU)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/117/2005

Presiding Officer : SHRI MOHD. SHAKIR HASAN

The Circle Secretary,
National Federation of Telecom Employees,
41-A, Vijay Nagar,
Indore

: Workman/Union
Versus

General Manager,
Telecom, BSNL,
CTO Compound,
Old Residency Area,
Indore

: Management

AWARD

Passed on this 9th day of June, 2010

1. The Government of India, Ministry of Labour vide its Notification No. L -40012/55/2005-IR (DU) dated 18-10-05 has referred the following dispute for adjudication by this tribunal:-

“Whether the action of the management of General Manager, Telecom, BSNL, Indore in terminating the services of Shri Sanjay S/o Shri Sundar Singh Kushwah since 1990 without following the provisions of the I.D. Act is just and legal? If not, to what relief the workman is entitled?”

2. The case of the union workman, in short, is that the workman Sanjay Singh was engaged on daily wages in the year 1987 by the Telephone Department, Indore (Now BSNL) and worked till the beginning of 1990. He had worked more than 240 days preceding the termination of the service. It is stated that he was retrenched without notice or without giving any compensation under the provision of Section 25-F of the Industrial Dispute Act, 1947 (in short I.D. Act, 1947). His retrenchment is bad in law. It is further stated that in the year 1990 the Union on behalf of the workman and 159 others filed an application No. 229/90 before the Hon'ble Administrative Tribunal, Jabalpur against the management and the same was disposed off on 19-9-05. The Hon'ble Administrative Tribunal directed the management to regularize the workman who were engaged prior to 22-6-88 and also set aside the order of termination

who were terminated without giving compensation but the management had not reinstated the workman. The workman submits that the workman be reinstated from the date of termination with back wages.

3. The management appeared and filed Written Statement in the case. The case of the management, inter alia, is that the workman was never engaged by the management. The case of the Union/workman is vague and not specific. It is stated that it is not clear as to where he was engaged on daily wages because there were several units of the Telephone department at Indore and the Union/workman has not filed any document to support his case. It is also denied that the Hon'ble Central Administrative Tribunal, Jabalpur had passed any order directing the management to regularize the workman. The Union/workman has to file the case before the Hon'ble CAT whose order is said to have been violated. It is denied that the workman had ever completed one year service before termination by the non-applicant and he comes under the purview of retrenchment. It is submitted that the reference be, accordingly answered.

4. The Union/workman absented subsequently in the case and therefore the then Tribunal proceeded the reference ex parte against the Union/workman on 23-9-08.

5. The point for consideration is as whether the action of the management in terminating the service of the workman is legal and justified?

6. The burden was on the Union/workman to prove that the workman was engaged by the Telephone Department from 1987 to 1990 as the management has completely denied the engagement of the workman in the department. The case is ex parte against the Union/workman and therefore the Union/workman has failed to discharge his burden to prove the case. However the management has examined one witness to prove his case. The management witness Shri Basant Kumar Yadav is Divisional Engineer at Indore. He has stated that the workman has not furnished information either in his statement of claim not adduced any evidence as to where and in which unit of the Telephone Deptt, he was engaged at Indore. He has denied in his evidence that the workman had worked 240 days or more in the Telephone Department. He has also denied that the Hon'ble Central Administrative Tribunal, Jabalpur had passed any order in favour of the workman. His evidence is un rebutted. There is no reason to disbelieve the evidence of this witness. His evidence clearly shows that there is no evidence to establish that the workman was ever engaged by the Telephone department, Indore. Thus it is clear that the workman is not entitled to any relief. Accordingly the reference is answered.

7. In the result, the award is passed without any order to costs.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour and Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 22 जून, 2010

का.आ. 1789.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 10/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-6-2010 को प्राप्त हुआ था।

[सं. एल-12011/123/2007-आईआर(बी-II)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 22nd June, 2010

S.O. 1789.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 10/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 22-6-2010.

[No. L-12011/123/2007-IR (B-II)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Wednesday, the 16th June, 2010

Present: A. N. Janardanan, Presiding Officer

Industrial Dispute No. 10/2008

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Punjab National Bank and their Workman)

BETWEEN

The General Secretary : 1st Party/Petitioner
Punjab National Bank Staff Union
Chennai - 600001

Vs

The chairman and Managing : 2nd Party/Respondent
Director
Punjab National Bank
No. 7, Bhikaji Cama Place
New Delhi - 110006

APPEARANCE

For the 1st Party/Petitioner : Sri L. Shankaravadiveli,
Authorized Representative

For the 2nd Party/Management : Smt. Vidya Verma,
Authorized Representative

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12011/123/2007-IR(B-II) dated 15-02-2008 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Management of the Punjab National Bank in imposing the penalty of reversion to Clerk w.e.f. 01-02-2000 and to recover the amount of potential loss @ Rs. 2,500 p.m. starting from February, 2000 vide order dated 23-02-2000 on Sri N. Baskaramani is legal and justified? If not, to what relief the concerned workman is entitled?”

2. After the receipt of the Industrial Dispute, the referred ID was taken on file as I.D.10/2008. Pursuant to notice both the parties entered appearance through their respective representatives and filed their Claim and Counter Statement as the case may be.

3. The background facts in the Claim Statement are as follows :

The workman appointed as a Clerk on 01-02-1979 and promoted as a Officer/Accountant on 07-06-1993 with untiring hard work and unblemished record of service and with no room for complaint so far introduced one Venkatesan, his neighbour to open a Current Account in the Vellore Branch while one Sri T.K. Rajagopal was the Manager of the Resondent/Bank in 1994. While so, on 12-07-1996 the workman was charged by a memo that in collusion with N. Venkatesan he with dishonest intention to help him persuaded Manager T.R. Parameswaran to grant Consumer Loans in fictitious names which charge is denied. He submitted a written explanation. An enquiry was conducted in which no reasonable opportunity was given to him which culminated in an enquiry report dated 08-12-1999 served on him which was duly replied to. By an order dated 23-2-2000 the workman was reverted as Clerk with effect from 01-02-2000 with further order to recover the alleged loss with interest at 17.50% w.e.f. 01-01-1995 @ Rs. 2,500 per month from salary. The order is illegal and arbitrary. The appeal filed was dismissed on 01-06-2000 illegally and arbitrarily without appreciating evidence. The enquiry report is wrong without application of mind and rules and regulations. The Manager alone is competent to grant loans and the workman is not connected with the same, which is not taken note of by the Respondent. The workman only introduced Venkatesan to open a Current

Account. He has no connection with the granting of loan sanctioned by T.R. Parameswaran, the subsequent Manager. The workman is implicated without any legal basis. The workman is not in fiduciary capacity and the responsibility is only with the Manager. The stand that the concerned workman prevailed upon the Manager for sanction of the loan is farfetched and is to implicate the workman. That the deposition of MW2 Parameswaran that he had to rely on the workman due to lack of knowledge of Tamil is untenable since the forms are in English. He was compelled to acknowledge by letter accepting 50% liability under coercion which fact urged in appeal is not considered. The enquiry is farce being vitiated and being against the principles of natural justice and fairplay. If the bank had produced documents relied upon by them the falsity of the charges would have been proved. The punishment is highly disproportionate and is double by way of reversion from Accountant to Clerk as well as imposing liability of making good the alleged 50% loss. The workman has clean past record of service which has not been taken into account. Hence the reference.

4. Bereft of unnecessary details, the Counter statement contentions read as follows :

The application being highly belated suffers from delay and laches. The claim is not maintainable since he was not a workman at the time of the punishment. The issue is to be decided as a Preliminary Point. In the enquiry the petitioner did not want any defence assistant. He was given all reasonable opportunities in all respects. He raised no objections in the enquiry. He was found guilty by the enquiry report which was communicated to him proposing dismissal from service. He made submissions and he was also personally heard on 25-01-2000. The punishment which was reduced to the impugned punishment on 23-02-2000. He was also restricted from further promotion for 5 years which restraint was not there after merger of Erstwhile Nedungadi Bank (ENBL) with Respondent/Bank. The petitioner was fully knowing that the loanee Venkatesan was not having any business concern as proprietor of M/s Kumaran Home Appliances. The consumer loans being without actual borrowers, there was no repayment except in meager amounts presumptively made by Venkatesan and bank incurred a potential loss of Rs. 5,79,394 as on 31-12-1995 with subsequent interest. The workman colluded with Venkaesan and fabricated documents for the loans. An enquiry was held in which the petitioner himself conducted the enquiry on his part with no witness produced by him. In the letter dated 05-02-1996 of the petitioner to the Manager, Arcot Branch he admitted having introduced Venkatesan to the Manager, which fact is also not disputed in the enquiry. The petitioner is joint custodian in equal grade of the Manager both being Scale-1 Officers. In 17-12-1999 letter he has admitted joint responsibility of the branch and conceded for recovery of part of the loss. The Manager was also inflicted major

penalty. It is denied that he was forced to execute a letter accepting liability. The punishment is commensurate to the gravity of the charges. Recovery of loss is not a second punishment in the ordinal numeral of the punishment. The enquiry is lawful and valid. The petitioner is not entitled to any relief.

5. Evidence consists of the testimony of WW1 and Ex.W1 to Ex.W14 marked on the petitioner's side and Ex.M1 to Ex.M15, on the side of the Respondent, all marked on consent with no oral evidence adduced on the Respondent's side.

6. Points for consideration are :

(i) Whether the reversion of the petitioner as Clerk and the order to recover @ Rs. 2,500 per mensem from February, 2000 from the petitioner is legal and justified ?

(ii) To what relief the concerned workman is entitled ?

Points (i) & (ii)

7. Initially there was a Preliminary issue raised regarding the maintainability of the ID for the mooted reason that the petitioner not being a workman at the time of impugned reversion but being a Bank Officer in supervisory category, the ID is not maintainable. As per order dated 30-12-2009 the Preliminary Issue was answered against the Management and held that the ID is maintainable.

8. The petitioner by filing written arguments canvassed for the contention that the enquiry is not fair, that basis of charge was erroneous assumption of joint responsibility to the petitioner, that he has no fiduciary capacity, that he cannot persuade the Manager to grant loan, that he has not prevailed upon the Manager for sanction of the loan and that he has been unnecessarily implicated. The finding and punishment are also challenged as not sustainable.

9. He relied on the decision of the Supreme Court in *Kuldeep Singh Vs. Commissioner of Police and Others* (1999)- 2-SCC-10 wherein Apex Court held that "*finding of guilty although would not be normally interferred with under Article -226 and 32 of the Constitution the Court can interfere therewith if the same is based on no evidence or is such as could not be reached by an ordinary prudent man or is perverse or is made at the dictates of superior authority.*"

10. The arguments advanced on behalf of the Respondent are that the workman had admitted the enquiry proceedings. The challenge against the enquiry and the finding is the outcome of an afterthought. He was given reasonable opportunity in the enquiry which had been conducted fairly and properly. The charges have been

established. he had no objection in marking any documents in the enquiry. There was no challenge against the evidence adduced in the enquiry. The workman aided the loanee Venkatesan for releasing the Consumer Loan. He admitted having introduced Venkatesan to the branch Manager and also admitted responsibility for a part of the loss of the Bank. There is no allegation of victimization or malafides averred in the Claim Statement. The punishment imposed is just proportionate to the seriousness of the offence committed by the Bank Officer who is required to exercise higher standards of honesty and integrity in dealing with the money of the customers. Every bank employee is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank Officer. Good conduct and discipline are inseparable in the functioning of every Bank Officer. The decisions relied on by the Respondent's Representative are the cases of Managing Director, United Commercial Bank Vs P.C. Kakkar (AIR-2003-SC-1571) and Damoh Panna Sagar Rural Regional Bank and Another Vs. Munna Lal Jain (AIR-2005-SC-584) rendered by the Apex Court.

11. The ruling cited on the side of the petitioner has no application to the case. The case on hand is not one with no evidence against the petitioner. The finding is not one as could not be reached by an ordinary prudent man. The finding of guilty by the Enquiry Officer is not perverse. The finding has been truly and factually arrived at by the Enquiry Officer on the basis of legal evidence. The ruling cited by petitioner has no relevance to the facts of this case. Having gone through the entire records and the finding there need be the least hesitation to hold that the enquiry has been held fairly and properly and the finding has been rendered correctly which stands intact without being vitiated by any bad elements. It is legal and does not call for interference. The same is the case with punishment as well which is just proportionate to the gravity of the offence committed by a bank Officer undermining economic edifice of the very institution under which he is an Officer. In fact whatever leniency he might be given under a lenient treatment has already been extended to. The order for the recovery from him @ Rs. 2,500 per mensem also is to be kept intact with the observation that as and when the liability due from him stands paid up fully the recovery would be stopped. The petitioner is not entitled to any relief since the action taken by the Management is only legal and justified.

12. The reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 16th June, 2010)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined:—

For the 1st Party/Petitioner : WWI. N. Bhaskaramani

For the 2nd Party/Management : None

Documents Marked on the Petitioner's side :—

Ex.No.	Date	Description
Ex.W1	12-07-1996	Memo issue by GM (O)
Ex.W2	23-9-1997	Proceedings of Enquiry Officer
Ex.W3	25-10-1997	Petition filed by the petitioner before the Respondent
Ex.W4	08-12-1999	Memo (Disciplinary Proceeding) Encl: Findings of Enquiry
Ex.W5	23-02-2000	Memo by the Respondent (order)
Ex.W6	28-03-2000	Appeal filed by the petitioner
Ex.W7	01-06-2000	Final Order passed by the Appellant Authority
Ex.W8	16-07-2000	Affidavit of the petitioner in WP 12201/2000
Ex.W9	-do-	Writ Petitioner -do-
Ex.W10	-do-	WMP No. 17508/2000 in -do-
Ex.W11	18-10-2000	Counter in WP 12201/2000
Ex.W12	08-01-2003	Order in -do-
Ex.W13	02-11-2006	Judgment in Writ Appeal No. 1093 of 2006
Ex.W14	4/2007	petition filed by the Petitioner u/s 2(k) of the ID Act before the Regional Labour Commissioner (Central)

On the Management's side

Ex.No.	Date	Description
Ex. M1	12-07-1996	Charge Memo
Ex. M2	21-08-1996	Explanation to Charge Sheet
Ex. M3	04-11-1996	Order of Enquiry
Ex. M4	-	Enquiry Proceedings
Ex. M5	-	Enquiry Report
Ex. M6	08-12-1999	Memo of Disciplinary Authority proposing punishment
Ex. M7	17-12-1999	Reply of Petitioner to show cause notice

EX.M8	23-02-2000	Order of Disciplinary Authority
EX.M9	28-03-2000	Appeal before the Appellate Authority
EX.M10	01-06-2000	Order of Appellate Authority
EX.M11	08-01-2003	Order of Hon'ble Madras High Court dismissing WP No. 12201/2000
EX.M12	02-11-2006	Order of Hon'ble Madras High Court allowing WA No.1093/2006 to be withdrawn
EX.M13	05-02-1996	M 12 letter of applicant to Manager, Arcot
EX.M14	07-02-1996	letter of applicant to Manager, Arcot
EX.M15	—	Nedungadi Bank Ltd. Officers Service Rules full set.

नई दिल्ली, 22 जून, 2010

का. अ. 1790.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूची में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संघर्ष नियोजकों और उनके कार्यकर्ता के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 4/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-6-2010 को प्राप्त हुआ था।

[सं. एल-12012/103/2007-आईआर(बी-11)]
कमल बाबु, डेस्क अधिकारी

New Delhi, the 22nd June, 2010

S.O. 1790.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No.4/2008) of the Central Government Industrial Tribunal cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Vijaya Bank and their workman, which was received by the Central Government on 22-6-2010.

[No. L-12012/103/2007-IR (B-II)]

KAMAL BABU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI

Wednesday, the 16th June, 2010

Present: N. Janardanan, Presiding Officer
Industrial Dispute No. 4/2008

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Vijaya Bank and their Workman]

BETWEEN

Sri S. Udayakumar : Petitioner/1st Party
V/s
The General Manager : Respondent/2nd Party
Vijaya Bank
No. 31, V. N. Road, T. Nagar
Chennai - 600017

APPEARANCE

For the 1st Party/Petitioner : S. Aravamuthan

For the 2nd Party/Management : M/s R. Umasuthan &
P. Srinivasan

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12012/103/2007 (IR(B-II)) dated 17-12-2007 referred the following Industrial Dispute to the Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Management of Vijaya Bank in dismissing S. Udayakumar from the services of the Bank was proper, giving him proper opportunity to present his case and proper? If not, to what relief he is entitled?”

2. After the receipt of the Industrial Dispute, this Tribunal has numbered it as ID 4/2008. Pursuant to notice both the parties entered appearance through advocates and filed their Claim and Counter Statement as the case may be.

3. In the Claim Statement, the contentions raised briefly read as follows:

The petitioner was working as Clerk in T. Nagar, Venkatanarayana Road branch of the Respondent/Bank in May, 2002 as per the single window computer system with passing level of 7 any cash transaction upto Rs. 20,000 and clearing transaction upto Rs. 50,000 could be authorized by Clerk himself above which requires Officer's authorization. At the end of each day single window counter clerks, then two in number should take a printout of the transactions made by them and pass on to the officer in charge for approval. From November, 2002, petitioner was allotted service counter operations such as Savings Bank Pass Book printing, dealing with Term Deposit Accounts, Demand Draft printing etc. Their works then were authorized by their Officers. Shortly they were changed to 7 which were as was informed to be set right some software error which never happened. On 02-04-2003, he was restricted from entering into the workplace by the Branch Manager alleging him to have had misappropriated funds using password of other staff members which he denied. He was suspended on 03-04-2003 alleging fraudulent withdrawal of Rs. 4,71,235 from 03-10-2001 to 11-01-2002. They also obtained letters and signature on various documents from him under threat. He was made to make good losses of the bank. The management pre-determined to punish him. The bank also got him taken to the Police Commissioner's Office and before Metropolitan Magistrate, Saidapet wherefrom he was remanded to judicial Custody on 29-04-2003. The bank effected cuts in his

subsistence allowance violating norms. The charges are that the petitioner fraudulently withdrew Rs. 4,25,000 from LTD 117 from 10-05-2002 to 21-09-2002 by misusing others password, Rs. 3,88,000 LTD 121 from 18-06-2002 to 02-08-2002, Rs. 5,99,000 LTD 139 from 12-07-2002 to 07-09-2002, opened SB Account No. 6018 in fictitious name and routed funds through that account, prematurely closed the NREVCC No. 1041/3 on 25-09-2002, of Mr. Tirunelveli Subramaniam and transferred the amount of Rs. 15,87,264 to the fictitious SB Account. On 25-09-2002 and 03-10-2002, Rs. 8,40,000 and Rs. 6,00,000 were respectively transferred to the above mentioned LTD accounts 117, 121 and 139 in order to close it. Rs. 1,84,935 fraudulently withdrawn from LTD 62 from 12-12-2002 to 31-01-2003, Rs. 99,500 from LTD 133 from 28-02-2003 to 28-03-2003, Rs. 1,34,000 from LTD 152 from 11-02-2003 to 18-03-2003, Rs. 1,47,264 from fictitious SB Account No. 6018 on 03-12-2002 and on 01-12-2002 fraudulently transferred Rs. 66,473 from MVCC to and inoperative SB Account No. 1868 and withdrew the amount. He destroyed all the vouchers except two for Rs. 1,00,000 and for Rs. 20,000 pertaining to LTD 117 and LTD 62. The petitioner is made a scapegoat to save its allies. Withdrawing of amounts in parts from 10-05-2002 to 21-09-2002 was absolutely impossible. In the entire fraudulent episodes involvement of many hands from the branch higher-ups to the Head Office is there. The charges are vague. The dismissal order is illegal. The misconduct is not mentioned. The enquiry is defective and against the principles of natural justice. The enquiry was held ex-parte. The petitioner is to be given an opportunity to cross-examine and examine witnesses. The Enquiry Officer is biased. Unfair victimization is there. Hence the petition.

4. In the Counter Statement, the following allegations are stated which mentioned is briefly as follows:

The averments in the petition suffer from material irregularity and suppression/misrepresentation of facts. The petitioner wilfully absented in the departmental enquiry in spite of various opportunities accorded. While the petitioner was working as Clerk at V.N. Road Branch, Chennai from 10-05-2002 to 28-03-2003, he was noticed to have had committed irregularities. Preliminary investigation revealed his involvement and he was suspended on 03-04-2003. Detailed investigation revealed his having misappropriated Rs. 20,44,672.00 by fraudulent transactions in the computer system. There was FIR registered on 11-04-2003. He was charge Sheeted on 21-11-2003 with 12 charges. They are (i) he misusing passwords of Mrs. N.Meenal, Clerk and Rajini Ravi, Asstt. Manager carried out master data corrections in the computer systems and misusing the single window operators powers, fraudulently withdrew Rs. 14,12,500 from LTD Account Numbers 117, 121 & 139 between 10-05-2002 and 21-09-2002 (ii) unauthorizedly opened SB A/c in the name of S. Rajkumar, a fictitious person he siphoned off the proceeds of the VCC Account No. 1014/03 of Tirunellai Subramaniam, (iii) he prematurely closed VCC 1014/03 without deposit receipt and credited the proceeds to SB Account No. 6018 and transferred amounts to LTD Account Numbers 117, 121 and 139, to conceal the fraud in the LTD Accounts, (iv) he fraudulently withdrew Rs. 1,47,264.00 on 05-10-2004 part

of the proceeds of VCC Account No. 1014/03 by routing through SB Account No. 6018 (v) he withdrew amounts totaling to Rs. 1,39,935 from LTD Account No. 62 on 12-12-2002, 20-12-2002 and 31-12-2002 (vi) misused the DD Reimbursement Account for debiting amounts totaling to Rs. 2,20,000 and siphoned off the same transferring the amounts to SB Account No. 6000 held by him jointly with S. Sudhakar and utilized Rs. 40,000 to prepare a DD favouring Vijaya Bank Workers Coop. Thrift Society and thereafter squared off the DD Reimbursement Account by fraudulently debiting A/c Nos. 62, 133, 152 (vii) he fraudulently debited LTD A/c No. 133 with Rs. 20,000 on 20-03-2003 and Rs. 8,500 on 21-03-2003 and utilized the amounts to prepare Demand Drafts favouring Purusawalkam Coop. Bank Ltd. (viii) he fraudulently debited LTD A/c No. 133 with Rs. 10,000 on 26-03-2003 and Rs. 15,000 on 28-03-2004 and misappropriated the amounts by credit to his SB A/c No. 6000 held jointly with S. Sudhakar (ix) he fraudulently debited the matured VCC A/c No. 1438 and credited the proceeds to inoperative SB A/c No. 1848 facilitating its unauthorized withdrawal (x) he connived with B. Ramesh, Clerk in fraudulently withdrawing Rs. 66,473.00 from inoperative SB A/c No. 1848, he also instigated B. Ramesh to fraudulently withdraw amounts from the closed LTD A/c No. 62 and 152 (xi) he destroyed/ removed vouchers account opening forms and LTD documents pertaining to the fraudulent transactions to destroy evidence causing wilful damage to the property of the bank. He was supplied with a report of investigation on request. His request for an Advocate was not favoured initially since no complicated facts were involved. His request for adjournment of the enquiry was allowed. The petitioner obtained interim stay order from the High Court. The High Court allowed the assistance of an Advocate to the petitioner. The petitioner did not attend the further scheduled enquiry as well for no reasons disclosed. The enquiry was held ex-parte marking documents and examining 7 witnesses. The enquiry report was sent to the petitioner by registered post. He did not submit any reply. The enquiry report dated 14-02-2005 held all the 12 charges proved. The enquiry proceedings were also sent to the petitioner. Considering the report and representation dated 26-02-2005, the proposed punishment of dismissal was communicated to him on 04-04-2005. There was no representation submitted by the petitioner. Dismissal was passed on 24-05-2005. Appeal dated 08-05-2005 of the petitioner was dismissed on 20-07-2005. It is denied that there was information regarding any software error and that the same would be set right shortly. It is false to say that signatures on various documents were obtained from the petitioner. The petitioner's allegations against the bank are concocted, malicious and devoid of truth. Subsistence Allowance (SA) was paid to the petitioner @ 1/3rd of salary for the first 3 months and 1/2 the rate during subsequent period of suspension. Proportionate loan instalments will be deducted when subsistence is paid at 1/2 the rate. It is as a practice in vogue. It is denied that bank has violated the norms. Variance in investigation reports cannot be construed as bias or prejudices. That LTD Accounts were kept inoperative by the officials of the branch is a presumption of the petitioner without any grain of truth. Circumstances

point to the involvement of the petitioner in the destruction of vouchers except two. While petitioner was guilty of the fraudulent transactions he is out to blame others which is not true. It is proved that petitioner misused the password of other staff. It is the petitioner who undertook fraudulent transactions. He was Charge Sheeted only after thorough investigation. The delay is reasonable. The principles of natural justice have been followed. The contentions of the petitioner are vague and meritless. The punishment is commensurate with the gravity of the offence. The petitioner was given all avenues to examine/cross-examine witnesses, conduct of the whole proceedings in conformity with the principles of natural justice, adducing of evidence etc. which remedy he had exhausted. Having wilfully absented from the enquiry and squandered the opportunities petitioner is estopped from preferring the ID which is abuse of processes of law. The petitioner presumably did not participate in the enquiry as he was aware that he could not rebut all the charges. The enquiry was held observing principle of equity, fair play and natural justice. The findings are fair, well reasoned and logical apart from being objective and irrefutable. The claim may be dismissed.

5. Points for consideration are :

(i) Whether the dismissal of the petitioner from service by the Respondent/Management is legal and justified ?

(ii) To what relief the concerned workman is entitled ?

6. On a motion on behalf of the petitioner the question whether the enquiry held was fair and proper was enquired into as a Preliminary Issue. As per order dated 03-02-2010 it was held that the enquiry held was fair and proper and the ID stood posted for further enquiry. Though, in the subsequent enquiry petitioner represented, respondent never turned up. Eventually he has been called absent and set ex-parte. From the petitioner's side no further evidence has been adduce. Written arguments were submitted on behalf of the petitioner. No evidence has been adduced on either side. No documents were also marked on either side.

Points (i) & (ii)

7. The arguments on behalf of the petitioner are that the enquiry was not just and proper for the reason that the enquiry was based on an improper Charge Memo, it was ex-parte and on preliminary investigation report which was also ex-parte with no payment of SA and also was after an amendment of the Charge Memo. It is further pointed out that the enquiry held ex-parte would be equal to no enquiry. There is non-payment of full SA resultantly depriving petitioner's opportunity to defend the enquiry and that petitioner is therefore prejudiced in his defence.

8. Though the Respondent did not participate or present any arguments thereafter since as per the finding on the Preliminary Issue the enquiry has been found to have been held fairly and properly further challenge against

the validity of the enquiry is no more looming large for consideration. While the petitioner may have an argument as to the validity of the finding as being perverse being rendered without any evidence etc. and has actually advanced an argument to that score the said contention is also not sustainable as could be found from the enquiry proceeding and the finding rendered that in spite of the absence of the petitioner for the enquiry it has been held fairly and properly and in a manner not causing real prejudice to the petitioner. It is on cogent materials that the finding has been rendered holding the petitioner guilty. In the order on the Preliminary Issue it has been found that the petitioner has not availed the adequate opportunities which were available to him which having not been availed of the reason is purely attributable to him and there cannot be an imputation against the Management that he has not been given fair opportunity to defend. Bonafides were failed to be read in the allegations of the petitioner against the Management. There is no proof of real prejudice to petitioner. Accordingly, the Preliminary Issue was found in favour of the Management. In as much as it has not been substantiated that the finding is perverse for any reason, the argument to that direction is only to be rejected. Therefore, the finding is also upheld as valid and binding leaving no scope for interference. Coming to the punishment it could be found to be just proportionate to the gravity of the offence committed. The same is also not liable to be interfered with. In as much as the petitioner has had gone to the extent of wilfully committing laches in participating in the enquiry in spite of all opportunities given to him and though the enquiry proceeded ex-parte culminating in a report of finding holding him guilty of charges, the same having occasioned due to the wilful default on the part of the petitioner, the action of the Respondent/Management is justifiable and the same is only to be upheld. It is to be noted that the ex-parte finding following the ex-parte enquiry supervened not due to the petitioner not being given adequate opportunities to participate in the enquiry but due to the fact that petitioner failed to avail the opportunities due to his own laches and not due to fault of others. The petitioner is not entitled to any relief.

9. The reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the Open Court on this day the 16th June, 2010).

A. N. JANARDANAN, Presiding Officer

Witnesses Examined:—

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

Documents Marked on the Petitioner's side :—

Ex.No.	Date	Description
	Nil	

On the Management's side

Ex.No.	Date	Description
	Nil	

नई दिल्ली, 26 जून, 2010

का.आ. 1791.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सारुथर्दन रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय, एरनाकुलम के पंचाट (संदर्भ संख्या 38/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-2010 को प्राप्त हुआ था।

[सं. एल-41011/2/2001-आईआर(बी-1)]

जोहन टोपनो, अवर सचिव

New Delhi, the 26th June, 2010

S.O. 1791.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the management of Southern Railway and their workmen, received by the Central Government on 26-6-2010.

[No. L-41011/2/2001-IR(B-I)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri. P. L. Norbert, B. A., LL.B.,
Presiding Officer

(Monday, the 14th day of June, 2010/24th Jashtham, 1932)

I. D. No. 38/2007

Union : The General Secretary, Dakshin Railway Employees' Union Rasmi Near Girls Hostel, Nedungattur, P. O., Shornur.

By Adv.. Shri. T. C. Govindaswamy

Managements: 1. The General Manager, Southern Railway, Chennai- 600 003
2. The Senior Divisional Engineer, Southern Railway, Palakkad- 678001.

By Adv. Shri. M.C. Cherian.

This case coming up for hearing on 14-06-2010, this Tribunal- cum-Labour Court on the same day passed the following.

AWARD

This is a reference made under Section 10 (1) (d) of Industrial Disputes Act.

2. The demand of the union as per the reference is for implementation of Railway Board orders and upgradation and promotion of Steam Surplus Staff of Palakkad Division of Keral.

3. Though the parties entered appearance and filed their pleadings when the matter came up for evidence the union and the counsel remained absent off and on and

today when the case came up finally for evidence the union as well as its counsel are absent. The management is present and ready. The circumstances and the conduct of the union indicate that there is no existing dispute for adjudication. the reference was made in 2007. Therefore it is unnecessary to keep the case pending indefinitely.

In the result and award is passed finding that the demand of the union for implementation of Railway Board orders and consequential upgradation and promotion of Steam Surplus Staff of Palakkad Division is unjustified and the workmen are not entitled for any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 14th day of June, 2010.

P. L. NORBERT, Presiding Officer
Appendix - Nil.

नई दिल्ली, 26 जून, 2010

का.आ. 1792.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 224/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-6-2010 को प्राप्त हुआ था।

[सं. एल-12012/95/1990-आई आर(बी-1)]

जोहन टोपनो, अवर सचिव

New Delhi, the 26th June, 2010

S.O. 1792.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.224 /93) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur, now as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 26-6-2010.

[No. L-12012/95/1990-IR(B-I)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/224/93

Presiding Officer : Shri Mohd. Shakir Hasan

Shri Abhay Kumar Jadhav,
Dixitpura, 276,
Jabalpur (MP)

....Workman/Union

Versus

The Chief Regional Manager,
State Bank of India,
Regional Office, Marhatal, Jabalpur

The Branch Manager,
State Bank of India,
Imlai Branch,
Teh. Kundam, Jabalpur

....Management.

AWARD

Passed on 10th day of June, 2010

1. The Government of India, Ministry of Labour vide its Notification No. L-12012/95/90 -IR (B-I) dated 21-10-93 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of State Bank of India, Jabalpur, in terminating the services of Shri Abhay Kumar Jadhav, former Messenger-cum-Farash, w.e.f. 21-1-87 is legal and justified? If not, to what relief the workman is entitled to?”

2. The case of the workman, in short is that the workman was initially appointed as Messenger-Cum-Farrash on 24-12-83 and continued to work intermittently till 21-1-87. Thereafter he was not taken in employment without assigning any reason or without giving him any show cause notice. The workman applied for employment in the Bank on advertisement calling application form for those workers who had worked 90 days and more in the service of the Bank. the workman was neither called for interview nor given any appointment. It is stated that he was in continuous service of one year and he was retrenched without complying the provision of Section 25-F of the Industrial Disputes Act (in short I.D. Act). It is submitted that the workman be reinstated with back wages.

3. The management/non-applicant appeared and filed his written statement. The case of the management, inter alia, is that the workman was engaged on daily wages as Messenger-cum-farrash at Amlai Branch of State Bank of India on exigency of work but he was never engaged after 21-1-87. It is stated that he worked for 205 days in a year preceding the date of termination. Section 2(oo) of the I.D. Act is not applicable as he was engaged on daily wages and his terms of contract ended every day after the end of the day. He had not completed 240 days during a period of twelve calendar months preceding the date with reference and therefore the provisions of Sec-25-F of the I.D. Act is not attracted in the case. It is stated that to provide permanent employment to daily wages employees, a settlement was arrived on 15-2-85 between the management and subsidiary Bank Employees Union that who had

completed 90 days or more of service be given a chance for regular employment. The workman also applied and appeared before the Interview Committee in April 1986 but he did not succeed in the said interview. It is stated that again another settlement on 17-11-87 of similar nature was arrived between the management and the Union. The workman again applied and appeared in the interview on 12-1-90. Ultimately he was found suitable in the interview and was selected for regular employment in October 1994 and is in regular employment in Vindhya Nagar Branch of SBI. The fact is deliberately concealed by the workman. Under the circumstances, the workman is not entitled to any relief.

4. The workman after filing statement of claim absented and therefore the then Tribunal proceeded the reference exparte on 10-7-08 against the workman.

5. The point for consideration is as to whether the action of the management in terminating the service of the workman w.e.f. 21-7-87 is legal and justified?

6. The management has adduced oral and documentary evidence to prove the case. Management witness Shri Sanjeev Deshpande is Branch Manager of Imlai Branch of SBI. He has supported the case of the management in his evidence. He has stated that the workman had never worked 240 days in a calendar year particularly preceding the alleged termination. He has stated that he was engaged on contract basis on exigency on daily wages. His evidence shows that he does not come under the purview of the provision of Section 2(oo) of the I.D. Act. Rather he comes under Section 2(oo) (bb) of the I.D. Act. It is also clear that the provision of Section 25-F of the I.D. Act is not applicable in the case. He has further stated that a settlement was arrived for providing permanent employment to daily wagers on 15-2-85. The photocopy of the said settlement is filed which is marked as Exhibit M/1. He has stated that the workman did not succeed in the interview in terms of the settlement but later he succeeded and is in regular employment from the month of October-1994 at Vindhya Nagar Branch of SBI. This clearly shows that he was not entitled to be reinstated w.e.f. 21-1-87. There is no other evidence in rebuttal to the evidence of the management. There is no reason to disbelieve the above evidence. Thus I find and hold that the action of the management was justified. Accordingly the relief claimed is answered.

7. In the result the award is passed without any order to costs.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

MOHD. SHAKIR HASAN, Presiding Officer